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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.43355 of 2016

Date of Decision: 08.03.2017

Surinder Singh @ Nitu

.....Petitioner

Vs

State of Haryana and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. S.S. Nara, Advocate
for the petitioner.

Mr. Ripu Daman, AAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

Prayer in this petition is for quashing of FIR No. 87 dated 09.06.2004 registered under Sections 148, 149, 323, 324, 307 (deleted later), 120-B (deleted later) IPC at Police Station Chhachhrauli, District Yamuna Nagar, final report/challan dated 16.08.2004 registered under Sections 148/149/323/324/326 IPC as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Petitioner was one of the accused in the aforesaid FIR wherein allegation was that he along with others inflicted injuries on the person of complainant-Harcharan Singh. The injury attributed to the petitioner was that he inflicted a saria blow on

the leg of the complainant and other attacked with saria on head. The case was investigated by the police. Petitioner was declared as proclaimed offender in the case, however, other co-accused faced the trial. On the basis of X-ray report obtained by the prosecution during course of investigation, offence under Section 307 IPC was deleted and thereafter, police prepared the report under Section 173 Cr.P.C. Charges were framed under Sections 148, 149, 323, 324, 326, 120-B IPC against the co-accused of the petitioner. After trial of the case, the co-accused of the petitioner were ultimately acquitted by the trial Court vide judgment of acquittal dated 28.01.2013. Complainant at one point of time was aggrieved of aforesaid judgment of acquittal and he ventured to file appeal against the acquittal before the Court of Sessions, Yamuna Nagar at Jagadhari, but the same was ultimately got dismissed as withdrawn on account of understanding between the parties. After the compromise between the parties, the order declaring the petitioner as proclaimed offender was challenged before this Court in CRM-M No.42700 of 2016 and thereafter, petitioner appeared before the Illaqa Magistrate on 13.12.2016. The incident is of the year 2004. Petitioner has already acquired citizenship of Australia and has to go back.

After noticing the incriminating facts, this Court vide

order dated 20.12.2016 passed the following order:-

“This is a petition for quashing of FIR on the basis of compromise, in a case registered at the instance of the complainant, namely Harcharan Singh, alleging that on 08.06.2004, he had been assaulted by his brother Paramjit Singh and other members of unlawful assembly, including the petitioner.

The matter having been compromised, the co-accused of the petitioner were acquitted on merits.

The complainant filed an appeal before the Sessions Judge against the judgment of acquittal dated 28.01.2013, during pendency of the appeal. The appeal was withdrawn by the complainant/ injured.

Learned counsel for the petitioner submits that since the parties have compromised the matter and the order declaring the petitioner proclaimed offender has been challenged before this Court and the petitioner having already put in appearance before the Illaqa Magistrate on 13.12.2016, the present FIR and all the criminal proceedings arising therefrom may be quashed on the basis of compromise.

It is further contended by learned counsel for the petitioner that the incident is of the year 2004 and the petitioner, at present, has acquired the citizenship of Australia and

has to go back by 05.01.2017.

Learned counsel for the petitioner also states that the complainant is present in the Court.

Since there is no one to identify the complainant, I deem it appropriate, in the interest of justice, to direct the petitioner and the complainant to appear before the Sub Divisional Judicial Magistrate, Bilaspur, on 24.12.2016. The said Court shall record their statements on the said date or any other date prior to 03.01.2017.

For arguments, now to come up on 09.02.2017.

The trial Court shall send a report to this Court by the next date of hearing that the matter has been compromised between the petitioner and the complainant amicably without any threat, coercion or undue influence.

Copy of the order be sent to the said Court for compliance and report forthwith.

Since the petitioner has already put in appearance before the trial Court, the order declaring him proclaimed offender will cease to have any effect and the petitioner will not be debarred to leave India either on account of any order declaring him proclaimed offender or on account of pendency of any litigation.”

In pursuance of aforesaid order, both the parties have

already appeared before the Judicial Magistrate First Class, Bilaspur on 03.01.2017 and have made their respective statements. Judicial Magistrate First Class, Bilaspur has also endorsed the factum of genuineness of compromise in question which is stated to be voluntarily recorded and free from any undue influence or pressure.

This Court is of the opinion that in view of compromise between the parties, chances of conviction of the accused are remote and there is minimal chance of the witnesses coming forward to depose in support of prosecution version. In view of remote chances of conviction, it would be appropriate to exercise discretionary power of this Court under Section 482 Cr.P.C. to put an end to the controversy for all times to come. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when possibility of conviction is remote and bleak, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent

unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial.

Learned State counsel, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise.

The compromise in question is fully in consonance with the guidelines framed in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052** and **Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543.**

Resultantly, FIR No. 87 dated 09.06.2004 registered under Sections 148, 149, 323, 324, 307 (deleted later), 120-B (deleted later) IPC at Police Station Chhachhrauli, District Yamuna Nagar, final report/challan dated 16.08.2004 registered under Sections 148/149/323/324/326 IPC as well as all the subsequent proceedings arising therefrom, are hereby quashed.

Petition stands disposed of.

March 08, 2017

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No