

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

1. Criminal Misc. No.M- 23362 of 2017(O&M)

Date of Decision: January 08 , 2018.

Malkiat Singh @ Baba Mika and others PETITIONER(s)

Versus

State of Punjab and others RESPONDENT (s)

2. Criminal Misc. No. M- 23272 of 2017(O&M).

Kirandeep Kaur and others PETITIONER(s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek K.Thakur, Advocate
for the petitioners. (in CRM No.M-23362 of 2017)
for respondent No.2. (in CRM No.M-23272 of 2017)

Mr. Rahul Jaswal, Advocate
for respondents No.2 to 4 (in CRM No.M-23362 of 2017)
for the petitioners. (in CRM No.M-23272 of 2017)

Ms. Seena Mand, DAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of Criminal Misc. No.M-23362 of 2017

CRM No.M-23362 of 2017 and a connected case

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(Malkiat Singh @ Baba Mika and others v. State of Punjab and others) and Criminal Misc. No.M-23272 of 2017 (Kirandeep Kaur and others v. State of Punjab and another).

Crl.Misc. No.M-23362 of 2017 has been filed by Malkiat Singh @ Baba Mika, Jagpreet Singh and Major Singh for quashing of FIR No.40 dated 14.05.2017 under Sections 354/323 IPC (Section 34 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 were added subsequently), registered at Police Station Fattu Dyinga, District Kapurthala.

Crl. Misc. No.M-23272 of 2017 has been filed by Kirandeep Kaur (through her father/guardian Lakhwinder Singh), Lakhwinder Singh, Jasbir Kaur, Sinder Kaur, Jaswinder Kaur, Lovejeet Singh @ Lobhi and Jagjit Singh for quashing of the cross-version arising out of the aforesaid FIR i.e., DDR No.28 dated 15.05.2017 under Sections 324/148/149 IPC and all other consequential proceedings arising therefrom on the basis of a compromise arrived at between the parties.

It is submitted that due to certain misunderstandings, the abovesaid FIR and the cross-version have been registered. In fact, no offence punishable under Sections 354/323/34/324/148/149 IPC as well as Section 8 of the POCSO Act is made out against any of the parties. The terms and conditions were reduced into writing on 13.06.2017 (Annexure P4 with CRM No.M-23362 of 2017). None of the parties wish to proceed against each other in the abovesaid proceedings. They decided to put an end to the acrimony between them and wish to live in peace and harmony.

Learned counsel for the parties submit that the complainant in the

aforesaid FIR and one of the accused in DDR being a minor is not an impediment to the quashing of the abovesaid proceedings on the basis of the settlement between the parties, keeping in view the present facts and circumstances of the case. Statement of Lakhwinder Singh i.e., the father and lawful guardian of the said victim, Kirandeep Kaur has been recorded before the learned trial court regarding removal of the aforesaid misunderstandings and settlement between the parties. He is entitled to settle the matter. Reliance in this respect is placed on a decision of this Court dated 24.09.2015 in CRM No.M-30107 of 2015, Sunil Kumar @ Sant Kumar v. State of Punjab and others.

This Court on 27.11.2017 directed the parties to appear before learned trial court/Illaq Magistrate for recording their statements in respect to the above-mentioned compromise. Learned trial court/Illaq Magistrate was directed to submit a report regarding the genuineness of the compromise, as to whether it has been arrived at out of the free will and volition of the parties without any coercion, fear or undue influence. Learned trial court/Illaq Magistrate was also directed to intimate whether any of the petitioners are absconding/proclaimed offenders and whether any other case is pending against them. Information was sought as to whether all affected persons are a party to the settlement.

Pursuant to order dated 27.11.2017, the parties appeared before the learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi and their statements were recorded on 30.11.2017. Statements of the guardian/father of the victim/complainant as well as accused in FIR and DDR as well as statement

of Malkit Singh @ Baba Mika, at whose instance DDR No.28 dated 15.05.2017 was registered, were recorded. Statements of all the affected persons were recorded as well by the learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi. Statement of the Investigating Officer in this case was also recorded. The victim/complainant's father in the FIR as well as the complainant Malkiat Singh @ Baba Mika in the cross-version have specifically stated that the matter has been amicably resolved between the parties out of their free will, without any pressure, threat or coercion. They wish to maintain harmony amongst themselves. It is stated that they have no objection in case the aforesaid FIR as well as the cross-version are quashed. Statements of all the affected persons to this effect have been recorded.

Separate reports dated 01.12.2017 have been received from the learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi in respect to the settlement in the aforesaid FIR as well as the cross-version. Satisfaction is expressed by the learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi that the compromise between the parties is genuine, arrived at out of their own free will without any pressure, threat, coercion or undue influence from any quarter. It is further mentioned that none of the accused in the FIR i.e., Malkiat Singh @ Baba Mika, Jagpreet Singh and Major Singh are involved in any other criminal case. Lakhwinder Singh and Jasbir Kaur i.e., petitioner No.2 and 3 in CRM No.M-23272 of 2017 i.e., the accused in DDR No.28 are reported to be involved in three other cases; one under Section 379 IPC, another under Sections 379/337/338 IPC and third under the NDPS Act. Statements of the parties are appended alongwith the said reports.

Learned counsel for parties reaffirm and verify the factum of settlement between the parties. It is reiterated that their respective clients have no objection to the quashing of the abovementioned FIR as well as the DDR i.e., the cross-version. The parties do not seek to pursue the matter any longer and wish to live in peace and harmony.

Learned counsel for the State has raised no serious objection to the quashing of the FIR and the DDR in question as well as all consequential proceedings on the basis of a settlement arrived at between the parties.

In Kulwinder Singh and others versus State of Punjab and another 2007 (3) R.C.R. (Criminal) 1052, a five member Bench of this Court has observed as under:-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”.

Keeping in view the facts and circumstances of this case, it would be in the interest of justice to quash the abovesaid FIR as well as the cross-version as no useful purpose would be served by continuance of the present proceedings. It will merely lead to wastage of precious time of the court and would be an exercise in futility.

This petition is, thus, allowed and FIR No. dated 14.05.2017 under Sections 354/323 IPC (Section 34 IPC and Section 8 of the POCSO Act added subsequently), registered at Police Station Fattu Dyinga, District Kapurthala as

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well as the cross-version arising out of the said FIR i.e., DDR No.28 dated 15.05.2017 under Sections 324/148/149 IPC alongwith all consequential proceedings are, hereby, quashed.

January 08 , 2018.
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(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No