

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

CRM-M-35132 of 2016.
Decided on:-July 11, 2018.

Gurdeep Singh and others

.....Petitioners.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. P.S. Punia, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.(ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.14 dated 06.03.2015 under Section 427 IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984 registered at Police Station Hathur, District Ludhiana (Rural) (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 07.09.2015 (Annexure P-2).

This Court vide order dated February 15, 2017 had directed the parties to appear before the trial Court to get their respective statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise.

Pursuant to the aforesaid order, the petitioners, namely, Gurdeep Singh, Buta Singh and Amandeep Singh alias Amana as well as respondent No.3, namely, Gurcharan Singh, Sarpanch had appeared before learned Judicial Magistrate 1st Class, Jagraon and got their statements recorded on 21.02.2017. On the basis of the statements so recorded by the parties, learned Magistrate had submitted the report dated 24.03.2017 to the effect that the statements are not the result of any pressure or coercion in any manner between the parties and the compromise has been effected with the intervention of the respectable of the village. The compromise is a valid compromise and no accused is proclaimed offender in the present case.

Since the FIR in question was registered on the complaint filed by Block Development and Panchayat Officer (BDPO), vide order dated 30.03.2017, this Court directed the learned Magistrate to call BDPO and record his statement as well.

In compliance of aforesaid order dated 30.03.2017 of this Court, Bhupinder Singh, BDPO, Jagraon was summoned by learned Magistrate and his statement was also recorded on 29.04.2017. The statement of Bhupinder Singh, BDPO, Jagraon recorded by learned Magistrate reads as under:

“Stated that I have no objection if FIR No.14 dated 06.03.2015 under Section 427 of IPC and Section 3 of Damages of Public Property Act, 1984, Police Station Hathur, District Ludhiana may be quashed as the department has received the amount of damages caused by the accused to the department as per estimation of A.E. namely Jawahar Lal in the account of Gram Panchayat, Lakha. Original receipt of which is Mark-A.”

Learned counsel for the petitioners has stated that the damage so caused has duly been compensated to the Gram Panchayat and a sum of Rs.1500/- has been deposited with the Gram Panchayat. He has further drawn attention of this Court on the report of A.E. Jawahar Lal which shows that the drainage water was put in the drainage towards the other side and as per technical reasons, in case the drainage is constructed on both sides, the drainage water should go straight on both sides in the drainage as by putting the drainage water in the other drainage, it causes hindrance. However, by constructing the culvert (Pulli) by the Gram Panchayat, the putting of drainage water in the drainage, which is already constructed, is not doing anything wrong.

Learned State counsel has not disputed the factum of compromise effected between the parties.

In view of the above, continuation of the proceedings before the trial Court in the instant FIR qua the petitioners shall be an abuse of the process of law.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303***, as well as in the light of judgment passed by this Court in ***CRM-M-13591 of 2012*** titled as ***Kulwant Singh @ Kanti and another decided on 15.11.2012*** and the judgment of Hon'ble Delhi High Court in ***Varghese Cheriyan Versus State (NCT of Delhi) and another 2016(1) AD***

(Delhi) 269 coupled with the fact that the Gram Panchayat has duly been compensated, the present petition is allowed and the FIR No.14 dated 06.03.2015 under Section 427 IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984 registered at Police Station Hathur, District Ludhiana (Rural) (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioners on the basis of compromise dated 07.09.2015 (Annexure P-2), subject to payment of Rs.10,000/- as costs, which shall be deposited by the petitioners in the account of Gram Panchayat village Lakha, Tehsil Jagraon, District Ludhiana for development work.

July 11, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No