

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

251

CRM-M-4002-2017

Date of decision: 18.05.2018

Talwinder Singh @ Bhinder Singh and another

...PETITIONERS

VERSUS

State of Punjab and another

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gurpreet Singh, Advocate,
for the petitioners.

Mr. Kuldeep Singh, Sr. Deputy Advocate General, Punjab,
for the State.

Ms. Gurpal Kaur Daulat, Advocate,
for respondent No. 2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 26.05.2017, when this case was taken up for hearing, the following order was passed:-

“ This petition has been filed seeking quashing of FIR No. 83 dated 15.06.2012, registered for the alleged commission of offences punishable under Sections 452, 325, 323, 294, 506 and 34 IPC, at Police Station Sohana District SAS Nagar (Mohali), as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondent no 2. A copy of the compromise deed has been

annexed as Annexure P-2, with the petition.

Pursuant to the order dated 09.02.2017, learned counsel for the petitioners has relied upon an order of the Supreme Court passed in SLP (Crl.) No. 18630 of 2016 (**Unnikrishnan @ Unnikuttan vs. State of Kerala**), dated 01.03.2017, wherein also, the petitioner before the Supreme Court had been convicted for the commission of an offence punishable under Section 394 IPC and sentenced to two years rigorous imprisonment.

However, it is seen specifically that that was an order passed by the Supreme Court exercising jurisdiction under Article 142 of the Constitution. Obviously, this Court does not have jurisdiction of that kind.

Yet learned counsel for the parties, (for the petitioners and the complainant in the FIR), submit that there was other litigation also pending between the parties, which has all been settled and therefore, it would be in the interest of justice, peace and harmony in the society, to actually quash the FIR itself, as also the subsequent proceedings in the trial Court, leading to the conviction of the petitioners, rather than to keep the matter lingering.

Notice of motion.

On the asking of the Court, Mr. Rajesh Mehta, Addl. Advocate General, Punjab, accepts notice on behalf of respondent no 1.

A copy of the petition be handed over to learned State

counsel during the course the day.

Counsel for respondent no. 2 already being present, the said respondent obviously stands served of notice.

Adjourned to 31.08.2017.

In the meanwhile, the petitioners as also respondent no. 2, would appear before the learned appellate Court on the date already fixed before that Court, to record their statements. That court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

The learned appellate Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.”

In pursuance to the said order, the parties have appeared before the learned Additional Sessions Judge, SAS Nagar, Mohali on 22.08.2017 and got recorded their respective statements with reference to the compromise. On the basis of the statements made by the parties, learned Additional District and Sessions Judge, SAS Nagar, Mohali has submitted a report dated 23.08.2017, wherein it has been concluded that the compromise, which has been entered into between the parties, is voluntary and without any pressure or coercion between the parties and the same is genuine.

In the light of the above report dated 23.08.2017, counsel for

the petitioners prays that the present petition may be allowed.

Counsel for the complainant submits that the complainant has no objection in case the present petition is allowed and the FIR and all consequential proceedings arising therefrom are quashed. It has been stated by the counsel for the petitioners that there was a cross FIR No. 108 dated 31.07.2012 registered at Police Station Sohana, Mohali against the complainant party at the behest of the petitioners party, which has also been quashed on 25.05.2017 in CRM-M-4278 of 2017 titled as Talwinder Singh vs. State of Punjab and DDR No. 38 dated 31.07.2012 registered at Police Station Sohana, District Mohali, which has been quashed on 25.05.2017 in CRM-M-4008 of 2017 titled as Avtar Singh and others vs. State of Punjab. He, accordingly, prays that the present petition be allowed.

Having considered the submissions made by the counsel for the parties and keeping in view the above facts and circumstances especially in the light of the fact that the matter has been amicably resolved and there is no dispute as of now between the parties, the present petition, therefore, deserves to be allowed.

Keeping in view the ratio of the judgment of the Supreme Court in **Narinder Singh vs. State of Punjab**, 2014 (2) RCR (Criminal) 482 and Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052 and Crl. Appeal No. 1723 of 2017 titled as **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur vs. State of Gujarat and another**, decided on 04.10.2017, the present petition is allowed. FIR No. 83 dated 15.06.2012, registered under Sections 452, 325, 323, 294, 506 and 34 IPC, at Police Station Sohana District SAS Nagar (Mohali) and all subsequent proceedings

arising therefrom including judgment of conviction and order of sentence dated 22.03.2016, are hereby quashed qua the petitioners only.

May 18, 2018
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No