

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

CRM-M No. 49566 of 2017

DATE OF DECISION :- March 20, 2018

Manpreet Singh alias Manna and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Amaninder Singh Sekhon, Advocate for the petitioners.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Mr. Vikas Sonak, Advocate for respondent no.2.

This petition under Section 482 Cr.P.C. for quashing of F.I.R. No. 80 dated 28.07.2016 registered for offences under Sections 324/323/34 IPC with offences under Section 307 IPC added later on, recorded at Police Station Jaitu, District Faridkot and subsequent proceedings arising therefrom on the basis of compromise by way of affidavit of respondent no.2 and quashing of order dated 3.3.2017 passed by Sub Divisional Judicial Magistrate, Faridkot vide which the petitioners had been declared as proclaimed offenders, has been filed by petitioner Manpreet Singh alias Manna and Harbans Singh.

Inter alia in the petition, it is contended that main accused Ranjit Singh has since been acquitted by the trial Court; that the petitioners were declared proclaimed offenders on 3.3.2017 by SDJM Jaitu at their back; that the petitioners did not avoid the process of law rather they were not aware

of the proceedings; that during the trial which took place against the main accused Ranjit Singh, the witnesses had not supported the prosecution story and were declared hostile. Therefore, since the matter has been compromised, the present petition be accepted.

I have heard learned counsel for the petitioners, learned counsel for the complainant and learned State counsel besides going the record.

The facts of the case as per prosecution story are that complainant-injured Kulwinder Singh, a resident of Dabrikhana has been engaged in avocation of agriculture; they are five brothers; one of his brother Ranjit Singh has been residing separately whereas remaining four brothers are joint in residence and doing cultivation. On 23.7.2016 at about 11.15 P.M. when the complainant along with his brother Jagdish Singh had gone to their fields for irrigation while at Dabrikhana road to Bhakhana road unmettalled road (pahi), it was blocked by parking tractor. Then Ranjit Singh brother of complainant armed with a kirpan along with his son Manpreet Singh @ Manna armed with a gandasa and his brother-in-law Harbans Singh armed with a kirpan, earlier concealing themselves in the field on the left side of 'pahi' immediately appeared there. On lalkara being raised by Ranjit Singh that complainant and his brothers should not go scot-free, Manpreet Singh gave a gandasa blow from its reverse side to complainant hitting him on his head. Ranjit Singh gave a sword blow hitting complainant on his neck on right side. Thereafter Harbans Singh gave a kirpan blow hitting the complainant on left side of his chest. Ranjit Singh gave another sword blow hitting complainant on chest. Harbans Singh gave one more sword blow hitting complainant on his left shoulder. Ranjit Singh

gave one more sword blow hitting complainant on his right forearm. Thereafter the complainant fell down. Then Manpreet Singh gave two gandas blows from reverse side hitting the complainant on his hands and stomach. Jagdish Singh was also caused injuries. On arrival of other family members at the place of occurrence, all the assailants ran away therefrom along with their respective weapons. The complainant-injured was taken to Civil Hospital, Goniana, however, keeping in view his serious condition he was referred to GGS Medical College, Faridkot.

F.I.R. was recorded on the basis of statement of the said complainant. Motive behind the incident was that Ranjit Singh had been nursing a grudge that proper share in the joint property had not been given to him.

I have gone through the order dated 3.3.2017, declaring the petitioner as proclaimed offender. Learned counsel for the petitioners could not convince me as to how it is bad in the eyes of law. There does not appear to be any illegality or infirmity therein on the face of it. If, according to the petitioners they were not aware of the proceedings and warrants of arrest etc. had not been issued against them then proper course was to place on record all the interim orders in support of that contention. Merely placing on record the final order declaring the accused as proclaimed offenders will not serve the purpose for the petitioners who seek quashing of that order, since prima facie no ground comes out to be there to do so. The petitioners are obviously aware of the fact that they had been declared proclaimed offenders but they instead of surrendering in the trial Court and explaining all the facts and circumstances besides coming up with a plea that they were not aware of the proceedings and had not avoided the execution of warrants

praying for grant of bail and setting aside of order declaring them as proclaimed offenders have straightway rushed to this Court in the process by passing the trial Court which is improper on their part. As far as the petitioners seeking relief of quashing of F.I.R. No. 80 dated 28.7.2016 along with subsequent proceedings that cannot possibly be permitted. Offence under Section 307 IPC is not compoundable and rather an offence against the society. The apex Court in authority ***Narinder Singh and others versus State of Punjab and another 2014(2) CCR 123*** has dealt with this aspect at length.

The trial in this case took place. One of the accused faced trial and has been acquitted. Now the petitioners want to take advantage of that fact stating that it being so despite they being declared proclaimed offenders they be also given clean chit. Their conduct clearly deprives them from seeking that relief. If the petition is allowed in such a manner that would amount to putting premium on the misconduct of the accused, inasmuch as such accused keeping away from the process of law and when one of the accused gets acquitted suddenly appearing on the scene praying for grant of pre arrest bail/quashing of F.I.R. and other proceedings, may be for the reason of compromise. If this Court allows such type of requests sitting as a silent spectator that would encourage the people to flout law with impunity in as much as in case of several accused only one accused getting arrested remaining accused keeping away seeing the fate of that trial may be trying to browbeat/influence the prosecution witnesses and if it ends in acquittal suddenly approaching the High Court while by passing the trial Court asking for quashing of the F.I.R. and other proceedings. To my mind such type of request cannot be allowed. The proper course for the petitioners is

to surrender in the trial Court, move application for regular bail and get the order declaring them proclaimed offenders set aside. The prosecution can then file supplementary challan and then trial against them can be held. The fate of which may be that of the original trial or different depending upon the kind of deposition made by the prosecution witnesses.

However, petition so filed cannot be accepted under the circumstances. Therefore, I find little merit in the petition. The same is dismissed accordingly.

(H.S. MADAAN)
JUDGE

March 20, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No