

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CRM-M-9395-2018
Gurdev Singh and othersPetitioner(s)

Versus

State of Punjab and anotherRespondent(s)

(2) CRM-M-9404-2018
Gurbhajan Singh and othersPetitioner(s)

Versus

State of Punjab and anotherRespondent(s)

Date of decision: - 03.05.2018

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. I.S. Dhaliwal, Advocate
for the petitioners in **CRM-M-9395-2018** and
for respondent No.2 in **CRM-M-9404-2018**.

Mr. N.S. Dandiwal, Advocate
for the petitioners in **CRM-M-9404-2018** and
for respondent No.2 in **CRM-M-9395-2018**.

Mr. Tanvir Joshi, AAG, Punjab
for respondent No.1 in both cases.

MAHABIR SINGH SINDHU, J. (ORAL)

As identical facts are involved, therefore, it is just and appropriate to decide the above mentioned petitions, arising out of the same occurrence, by way of common order, in order to avoid the repetition.

2. Initially, in the wake of complaint of complainant Gurbhajan Singh son of Jangir Singh-respondent No.2 (for brevity “the complainant in 1st case”), a criminal case was registered against the petitioners-accused (in 1st case), vide FIR No.83 dated 30.10.2013, under Sections 452, 324, 323, 148 and 149 IPC, registered at Police Station Kabarwala, District Sri Muktsar Sahib.

3. Thereafter, in pursuance of complaint No.132/2014 dated 06.09.2014 titled 'Gurdev Singh Vs. Gurbhajan Singh and others', filed by complainant Gurdev Singh son of Swaran Singh-respondent No.2 (for brevity “the complainant”), a criminal cross-case was initiated against petitioners-accused (in 2nd case), in which, they were summoned to face the trial, for the commission of offences punishable under Sections 323, 324, 506 and 34 IPC, vide impugned summoning order dated 06.05.2016 (P-2 in 2nd case), by learned Judicial Magistrate 1st Class, Malout.

4. Heard.

5. While issuing notice of motion in the 1st case, the following order was passed by this Court on 07.03.2018: -

“Notice of motion.

On the asking of the Court, Mr. Amitoj Singh Dhaliwal, DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent No.1-State. A complete set of the petition be supplied to the State counsel during the course of the day.

At this stage, Mr. N.S. Dandiwal, Advocate accepts notice on behalf of respondent No.2 and undertakes to file power of attorney by the next date of hearing.

It is stated by learned counsel for the petitioners that matter has been compromised between the parties.

Parties are directed to appear before the Court of Illaqa Magistrate/trial Court on 21.3.2018 to get their statements recorded

with regard to compromise/settlement. The Illaqa Magistrate/trial Court is directed to submit a report to this Court on or before the next date of hearing containing the following information:-

- i. Number of persons arrayed as accused in FIR.
- ii. Whether any accused is proclaimed offender.
- iii. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

List on 4.4.2018.

6. Similar, order was passed by this Court in CRM-M-9404-2018 (2nd case) on 07.03.2018 and which reads as under: -

“Notice of motion.

On the asking of the Court, Mr. Amitoj Singh Dhaliwal, DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent No.1-State. A complete set of the petition be supplied to the State counsel during the course of the day.

At this stage, I.S. Dhaliwal Advocate puts in appearance on behalf of respondent No.2 by filing power of attorney, which is taken on record.

It is jointly stated by learned counsel for the parties that matter has been compromised between the parties.

Parties are directed to appear before the Court of Illaqa Magistrate/trial Court on 21.3.2018 to get their statements recorded with regard to compromise/settlement. The Illaqa Magistrate/trial Court is directed to submit a report to this Court on or before the next date of hearing containing the following information:-

- i. Number of persons arrayed as accused in FIR.
- ii. Whether any accused is proclaimed offender.
- iii. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

List on 4.4.2018.”

7. In terms of order dated 07.03.2018 passed in 1st case, learned Judicial Magistrate 1st Class, Malout, District Sri Muktsar Sahib, recorded the statements of both the parties and submitted a report dated 22.03.2016

and operative part of the same reads as under: -

“4. In order to prove their identity, both the parties have placed on file their identity proof. Both parties are identified by their respective counsels. This Court is satisfied that aforesaid statements made by the parties are voluntarily and their compromise has been arrived at genuine, without any coercion or undue influence from either side.

It is pertinent to mention over here that complainant has suffered a statement that the present FIR was lodged against only the above said accused person and no accused person has been declared proclaimed offender in the present case. Similarly, accused person have also suffered a statement that they have not been declared proclaimed offender in the present case. In the present case, there are complainant namely Gurbhajan Singh and accused person namely Gurdev Singh, Mukhtiar Singh, Mangal Singh, Iqbal Singh alias Baalu and Sukhdev Singh alias Sukha.

8. Similarly, in terms of order dated 07.03.2018 passed in 2nd case, learned Judicial Magistrate 1st Class, Malout, District Sri Muktsar Sahib, recorded the statements of both the parties and submitted a report dated 22.03.2016 and operative part of the same reads as under: -

“4. In order to prove their identity, both the parties have placed on file their identity proof. Both parties are identified by their respective counsels. This Court is satisfied that aforesaid statements made by the parties are voluntarily and their compromise has been arrived at genuine, without any coercion or undue influence from either side.

It is pertinent to mention over here that complainant has suffered a statement that no accused person has been declared offender in the present case. Similarly, accused person have also suffered a statement that they have not been declared offender in the present case. From the perusal of the complaint, the present complaint has been filed against only the above said accused person and no other person involved in the present complaint case.”

9. A perusal of the above-said reports reveal that the compromise entered into between the parties is genuine, voluntarily, without any pressure and undue influence. Even before this Court also, the parties are not disputing the factum of compromise arrived at between them.

10. No objection has been raised by the learned State counsel on a specific query put to him by the Court with regard to quashing of the FIR as well as all other consequential proceedings (in 1st case) and to quash and setting aside of complaint No.132/2014 and impugned summoning order dated 06.05.2016 (P-3) as well as all other consequential proceedings (in 2nd case) on the basis of the compromise effected between the parties in both the cases.

11. In view of the above, this Court is fully convinced that the offences are entirely personal in nature and do not affect any public peace or tranquillity and thus, quashing of FIR/summoning order in question along with all consequential proceedings on the basis of compromise would bring peace and harmony to secure the ends of justice. Accordingly, the impugned FIR (in 1st case) and summoning order (in 2nd case) along with all consequential proceedings resulting therefrom, qua petitioners in both the cases, are hereby quashed and set aside.

12. Petitions are allowed.

(MAHABIR SINGH SINDHU)
JUDGE

May 03, 2018
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Whether reportable?	Yes
Whether reasoned/speaking?	Yes