

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

CRM-M-15859-2019 (O & M)

Date of Decision : 31.10.2019

Ajay Kumar and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Manjit Saini, Advocate for the petitioners.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No. 1

Mr. Sandeep Sharma, Advocate
for respondents No. 2 and 3

ARUN KUMAR TYAGI, J. (ORAL)

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No. 0071 dated 24.09.2016 registered under Sections 323, 326, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Bhindi Saidan, Tehsil Ajnala, District Amritsar (Rural) (**Annexure P-1**) along with all subsequent proceedings arising therefrom in view of the compromise dated 27.03.2019 (**Annexure P-2**).

The aforesaid FIR was registered on statement of complainant-Ashok Kumar who alleged in his statement that on 06.07.2016 at about 9:00 a.m.

when he along with his family was present in his house, his neighbour Ajay Kumar armed with Datar, Rajpal and his son Lovjit both armed with Daang, Amarjit Kumar and his wife Seema and Parveen Kumari all empty handed, were hurling abuses in the street. When on hearing the noise, he went out of his house Parveen Kumari exhorted to teach him a lesson for demolishing the divider. Ajay Kumar gave blow with Datar on his head. When his wife Sony came out to save him, Rajpal gave blow with Daang on her head on which his wife fell down. Parveen Kumari and Seema held her by hair and gave slaps and punch blows to her. Lovjit Kumar and Amajit Kumar caught hold of him by hair and gave slaps and punch blows. When he and his wife raised alarm Sukhdev Raj, Mangu Ram and Satpal came on which the assailants left with their respective weapons while raising lalkara and hurling abuses. Sukhdev Raj and Sat Pal arranged a vehicle and got him admitted in the hospital. The cause of occurrence was that the accused wanted to make their divider on their side by demolishing their divider. The police investigated the case and charge-sheeted the accused.

While the case was fixed for prosecution evidence, present petition has been filed claiming that with the intervention of respectables, the matter has been amicably compromised between the parties and they have resolved their disputes.

A Co-ordinate Bench of this Court, while issuing notice of motion on 10.09.2019, passed the following order:-

“ Present petition under Section 482 Cr.P.C. for seeking quashing of FIR No. 71 dated 24.09.2016, registered under Section(s) 323, 326, 148 & 149 IPC at Police Station Bindi Saidan, Tehsil Ajnala, District Amritsar (Rural) on the basis of compromise dated 27.03.2019 (Annexure P2).

Learned counsel for the petitioners contended that the parties have amicably settled their disputes with the intervention of the respectable.

Notice of motion.

On asking of the Court, Mr. Ramandeep Sandhu, Senior Deputy Advocate General, Punjab accepts notice on behalf of respondent(s) No. 1. Mr. Sandeep Sharma, Advocate, who is present in the Court, has put in appearance on behalf of respondent(s) No. 2 & 3 and affirmed the fact of compromise effected between the parties.

In view of the matter, the parties are directed to appear before the trial Court/Area Judicial Magistrate on 27.09.2019 for getting their statements recorded with regard to the compromise arrived at between them.

The learned trial Court is directed to indicate (i) how many total accused are facing the trial, (ii) whether any of the accused was declared proclaimed offender at any stage of trial (iii) status/stage of the trial/case, (iv) to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and (v) to send its report to this Court through District and Sessions Judge, before the next date of hearing.

Adjourned to 31.10.2019.”

In terms of aforesaid order, learned JMJC, Ajnala has recorded the statements of the parties and submitted report dated 17.10.2019. The operative part of the same reads as under:-

“ In view of the aforesaid statements suffered by complainant, eyewitness-injured and accused party, this court is of the view that both the parties have compromised the matter. The compromise is genuine, voluntary and without any coercion and undue influence. In the present case, six accused are facing trial and none of the accused persons has been declared as proclaimed offender. Complainant/injured Ashok Kumar, eyewitness Soni wife of Ashok Kumar and concerned doctors, who medico legally examined the injured, have already been examined and case is pending for remaining evidence of the prosecution. Report is accordingly submitted, please.”

A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily, without any coercion or undue influence. Learned State Counsel has no objection in case the aforesaid FIR along with all subsequent proceedings arising therefrom is quashed on the basis of the compromise effected between the parties.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to **Narinder Singh Vs. State of Punjab : 2014 (2) RCR (Criminal) 482** and **State of Madhya Pradesh Vs. Laxmi Narayan and others : 2019(2) RCR (Criminal) 255**.

The present case is overwhelmingly and predominantly of private character and has arisen out of a civil dispute over divider. The parties have resolved their entire dispute among themselves. In view of the facts and circumstances of the case continuation of this case will put the accused to great oppression and extreme injustice would be caused to him if the case is not quashed.

In view of the above discussion, the petition is allowed and FIR No.0071 dated 24.09.2016 registered under Sections 323, 326, 148 and 149 of the IPC at Police Station Bhindi Saidan, Tehsil Ajnala, District Amritsar (Rural) (**Annexure P-1**) and all subsequent proceedings arising therefrom are quashed.

31.10.2019

Kavneet Singh

(ARUN KUMAR TYAGI)**JUDGE**

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