

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-39418-2013 (O&M)

Sandeep Kumar and others ... Petitioners

Vs.

Pawan Trehan ... Respondent

2. CRM-M-32999-2015 (O&M)

Pawan Trehan ... Petitioner

Vs.

State of Punjab ... Respondent

Date of Decision:09.09.2019

CORAM : HON'BLE MS. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vikram Chaudhari, Sr. Advocate with
Ms. Isha Goel, Advocate. (in CRM-M-39418 of 2013)

Mr. Gaurav Garg Dhuriwala, Addl. A.G. Punjab.

Mr. A.S. Manaise, Advocate. (In CRM-M-32999 of 2015)

ARVIND SINGH SANGWAN, J. (Oral)

By this common judgment, both the aforementioned criminal miscellaneous petitions are being decided together, being arising out of the same incident.

Prayer in these petitions are for quashing of complaint case bearing No.14 dated 17.1.2013 titled as “Pawan Trehan Versus Saurav Chauhan and others” as also order dated 13.8.2013 passed by the Judicial Magistrate, Batala vide which the trial Court had summoned the petitioners for the offence punishable under Sections 307, 452, 379, 325, 324, 323, 506, 427, 148, 149 IPC and 25,37,54,59 of Arms Act as also for quashing of

qualandra bearing No.166 dated 27.06.2013 (Annexure P-4) under Sections 182, 193 IPC and all subsequent proceedings arising therefrom, including notice of accusation dated 18.11.2014 (Annexure P-4/A)

Learned counsel for the petitioner(s) submits that on 17.08.2016, on the representation given by the learned counsel for the complainant that a compromise has been effected between the parties as they want to live in peace, the trial Court be allowed to compound the offences. It was jointly prayed that the statement of the parties be recorded by the trial Court and the petitioner was directed to deposit a sum of Rs.25,000/- with the Registry of this Court as costs. The parties were further directed to appear before the concerned Judicial Magistrate Ist Class for recording of their statements on 17.08.2016 and Judicial Magistrate Ist Class was directed to send its report after recording the statements, alongwith copies.

The Court of Judicial Magistrate Ist Class, Batala, vide report dated 3.9.2016 has submitted that the statement of complainant Pawan Trehan was recorded, who has stated that he has effected a compromise with the accused persons and has no grievance against them.

The statement of eye-witness/injured Sarwan Singh was also recorded who also stated in the similar terms that the matter has been compromised. Thereafter, the trial Court has recorded the statements of all the accused persons, who have also stated that the matter has been compromised.

However, these petitions remain pending for the reasons that it was tagged with some other cases and in the intervening period when the cancellation report was submitted in the FIR, Pawan Trehan on an earlier

occasion had given a complaint to the police, which was inquired into and on the basis of the inquiry report, the police recommended a qalandra dated 27.06.2013 under Sections 182, 193 IPC. The petitioner-Pawan Trehan has filed CRM-M-32999-2015 praying for quashing of the aforesaid qalandra on the ground that in the private complaint filed by him, summoning order has been passed, therefore, qalandra under Sections 182, 193 IPC is not maintainable.

As noticed above in the aforesaid complaint, the petitioner-Pawan Trehan (in CRM-M-32999-2015) and the injured witness Sarwan Singh made a statement voluntarily without any coercion or pressure, as is clear from the report of the Judicial Magistrate Ist Class, Batala. However, due to pendency of other petitions, no final order could be passed in both these petitions.

Learned counsel appearing on behalf of respondent No.2-Sarwan Singh has stated that he has indeed backed out of the compromise after the change of the Government as he was under pressure to do the compromise at the time when he made the statement before the trial Court.

A perusal of the statement of Sarwan Singh which was part of the report submitted by the trial Court, it is clear that Sarwan Singh, at no stage, has expressed any coercion or pressure before the learned Judicial Magistrate Ist Class, Batala, at the time of recording his statement, otherwise, the same could be recorded in the report. Even otherwise, once Sarwan Singh with an open mind has made a statement on oath before the trial Court in favour of the accused persons without any pressure or coercion, there was no occasion for the complainant to back out of the compromise. On receiving the report of the trial Court, this case remain

pending as it was tagged with some other cases.

Learned counsel for the complainant has stated that costs of Rs.25,000/- has already been deposited.

In view of the judgment of the Supreme Court passed in **Mohd. Shamim** v. **Smt. Nahid Begum**; 2005 (1) RCR (Criminal) 697, this petition is allowed.

Since the complaint and the summoning order has already been quashed in view of the compromise effected between the parties, the proceedings initiated against the petitioner under Section 182 and 193 IPC which are under Challenged in (CRM-M-32999-2015) are also quashed.

Accordingly, both these petitions are allowed.

09.09.2019
rajeev

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No