

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

**CRM-M-47833-2018
Date of decision:30.01.2019**

Amrinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. H.P.S. Ishar, Advocate for
Mr. C.S. Bagri, Advocate
for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. By way of filing this petition, the petitioner seeks quashing of FIR No. 96 dated 6.10.2003 under Sections 323, 324, 506, 148, 149 of Indian Penal Code, 1860, Police Station Machhiwara and proceedings emanating therefrom on the basis of a compromise having been effected between the parties and also order dated 11.09.2009 and 09.11.2009 (Annexure P-5) vide which the petitioner was declared proclaimed offender.
2. At the time of issuing notice of motion it had been noticed that

although the proclamation had been effected on 5.8.2009, but as per the proclamation notice the accused was to appear on 7.8.2009 which would mean that a clear period of 30 days as mandated under Section 82 Cr.P.C. was not provided. Although the trial Court had subsequently adjourned the matter to 11.09.2009 but such adjournment would not rectify the irregularity as noticed above. This Court in Ashok Kumar Versus State of Haryana and another, 2013(4) R.C.R. (Criminal) 550 in some identical circumstances had quashed an order whereby an accused had been declared proclaimed offender mainly on the ground that a clear period of 30 days had not been provided.

3. The learned State counsel has not been able to refute the aforesaid position. In these circumstances the impugned order dated 11.09.2009 and 09.11.2009 (Annexure P-5) declaring the petitioner proclaimed offender cannot sustain and is hereby set aside.
4. The petitioner seeks quashing of aforesaid FIR on the ground that matter has since been compromised amongst the parties.
5. Vide order dated 30.11.2018 the parties had been directed to appear before the trial Court/Illaq Magistrate so as to get the statements recorded with regard to the genuineness of the compromise.
6. Report of learned Judicial Magistrate Ist Class, Samrala has been received to the effect that statement of complainant-Rajeev Kumar has been received to the effect that he has compromised the matter with the petitioner. Statement of Paramjit Singh attorney of his son Amrinder Singh-petitioner has also been recorded to the effect that a compromise

has been effected between his son and the complainant. The petitioner is stated to be residing in Italy. In the present case there are as many as five accused out of which Kulwinder Singh, Paramjit Singh @ Billu son of Bakhataur Singh had already been acquitted while Gurcharan Singh had expired and proceedings qua him stand abated. Proceeding in respect of another accused Paramjit Singh son of Jagtar Singh already stands quashed on the basis of compromise. Learned learned Judicial Magistrate Ist Class, Samrala has specifically opined that the parties have entered into a compromise voluntarily and out of their free will.

7. In view of the aforesaid compromise and bearing in mind the law laid down by Full Bench of this Court in 2007(3) RCR (Crl.) 1052 Kulwinder Singh and others Vs. State of Punjab, the petition is allowed and FIR No. 96 dated 6.10.2003 under Sections 323, 324, 506, 148, 149 of Indian Penal Code, 1860, Police Station Machhiwara and all the consequent proceedings arising therefrom are hereby quashed qua the petitioner.

(GURVINDER SINGH GILL)
JUDGE

30.01.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No