

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

253

CRM-M-37998 of 2019

Date of Decision :16.12.2019

Jabarjang Singh and another

.....Petitioners

V/S

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. S.K.Bokolia, Advocate
for petitioner No. 1.

Mr. Harvinder Singh Mann, Advocate
for petitioner No. 2.

Mr. Arun Kaundal, DAG, Punjab
for respondent No.1-State.

Ms. Arshpreet Kaur, Advocate
for respondents No. 2 to 5.

ARUN KUMAR TYAGI,J. (ORAL)

The petitioners-**Jabarjang Singh** and **Rani Devi** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing the FIR No.102 dated 10.10.2018 registered under Section 306 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Bariwala, District Sri Muktsar Sahib (**Annexure P-1**) and all consequential proceedings arising therefrom on the basis of compromise dated 15.10.2018 (**Annexure P-2**) effected with respondents No. 2 to 5-**Satish Kumar @ Happy** and **Pawan Kumar** sons, **Kamla @ Natho** widow and **Sharda** daughter of deceased **Som Pal**.

The above said FIR was lodged by Satish Kumar @ Happy

stating that he was working as a Sweeper under contract system in Nagar Panchayat, Mandi Bariwala. He has one elder brother namely Pawan Kumar. When he was on his duty he received a phone call that his father committed suicide by hanging and he reached his home. His father Som Pal had obtained the loan of Rs.9,00,000/- from SBI Bank, Mandi Bariwala which was arranged by Jabarjang Singh @ Goggi for purchasing his car. The instalment of said loan had to be paid by Jabarjang Singh but Jabarjang Singh did not repay the loan despite repeated requests of his father. The bank issued the notice again and again to his father. Jabarjang Singh arranged the loan through his father and told that he had got purchased a plot for his father and his father took the loan on the said plot and could repay the loan but he did not purchase any plot for his father. His father Som Pal had borrowed amount of Rs.1,80,000/- on interest from Rani Devi who harassed his father by demanding the money again and again. His father committed suicide under the pressure of Jabarjang Singh @ Goggi and Rani Devi by hanging himself from the ceiling fan by standing on the motorcycle parked in his room.

The petitioners have filed the present petition for quashing of the FIR on the grounds that now with the intervention of respectables, the matter has been amicably compromised between the parties and they have resolved their disputes.

Vide order dated 31.10.2019 passed by this Court recording of statements of the private parties was directed and relevant part of the same reads as under:-

“Notice of motion for 29.11.2019.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Vivek Singla, Advocate has appeared on behalf of respondents No.2 to 5 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 08.11.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing containing the following information :-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.*

Trial Court/Illaq Magistrate is directed to send the report in time and also to send copy of the report to the Registrar (Judicial) of this Court so as to reach this Court before the date of hearing fixed.”

In terms of aforesaid order, Judicial Magistrate Ist Class,

Sri Muktsar Sahib has recorded the statements of both the parties and submitted report dated 20.11.2019. The relevant part of the same reads as under:-

“It is respectfully submitted that as per statements got recorded by the parties and IO ASI Rajpal Singh in FIR No. 102 Dated 10.10.2018 under Section 306 of IPC, Police Station Bariwala District Sri Muktsar Sahib there are two accused persons namely Jabarjang Singh and Rani Devi @ Rupa Wali and no accused is declared Proclaimed Offender. There is only one victim namely Sompal and one complainant namely Satish Kumar @ Happy and no any other criminal case/investigation is pending against any of the accused.

The court is of the view that statements of both the parties are bona fide and are not result of any pressure or coercion. It is respectfully submitted that there are two persons arrayed as accused in FIR, no accused

persons is proclaimed offender and accused persons are not involved in any other case. From the perusal of the statements of the complainant party and accused persons I am of the considered opinion that compromise arrived at among the complainant and accused persons is voluntarily with their free will and consent. So, the court is of the view that the compromise is genuine, voluntarily and without any coercion or undue influence. The report along with statements as directed are submitted for your kind perusal please.”

A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and 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 in this case.

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 **Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052; Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019(2) RCR (Criminal) 255.**

The present case is overwhelmingly and predominantly of private character and has arisen out of commercial transactions. The parties have resolved their entire dispute among themselves. The settlement has been arrived immediately after the alleged commission of offence while the matter is still under investigation. As per no dues certificate and Statement of Account filed in the Court today the loan taken from State Bank of India Bariwala Branch in the name of Som Pal has been repaid.

In view of the facts and circumstances of the case the possibility of conviction of the petitioners is remote and bleak and continuation of this case will put the petitioners to great oppression and extreme injustice would be caused to them if the FIR and all consequential proceedings arising therefrom are not quashed.

Therefore, FIR No. 102 dated 10.10.2018 registered under Section 306

of the IPC at Police Station Bariwala, District Sri Muktsar Sahib is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

16.12.2019

Rajeev (rvs)

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No