

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

250

CRM-M-48063-2019

Date of decision: 13.12.2019

Sukhdev Singh @ Satgur Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Amandeep Singh Rai, Advocate
for the petitioners.

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

Mr. Avtar Singh Sandhu, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

The petitioners-Sukhdev Singh @ Satgur Singh, Gupreet Kaur and Leela Singh have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of FIR No.53 dated 12.09.2019 registered under Sections 115 and 305 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Dharamgarh, District Sangrur (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 19.10.2019 (**Annexure P-2**) effected with respondent No.2-Sandeep Singh through his mother respondent No.3-Rajwinder Kaur @ Raj.

The above said FIR was registered on statement of respondent No.2-Sandeep Singh who alleged that his father Gurtej Singh and his uncle Satgur Singh (petitioner No.1) were two brothers.

He had no aunt. His father was a simpleton and his uncle was looking

after the responsibilities. About 11 years back, his father had divorced his mother Rajwinder Kaur. After divorce, his grandfather Nek Singh kept him and his mother Rajwinder Kaur performed second marriage. About 7/8 years back, his grandfather Nek Singh died. Thereupon he started living his grandmother Jaswant Kaur and father Gurtej Singh and his uncle Satgur Singh started living separately with his family about 3/4 years back. His uncle Satgur Singh transferred 5 to 6 acres of land in the name of his grandmother Jaswant Kaur. About 08 months back, his father Gurtej Singh went missing and his dead body was recovered after 4-5 days from Bhakhra Canal in the area of Chandpur village. His uncle Satgur Singh got his father's property transferred in his name (Satgur Singh's name) through Will. On 06.09.2019, his uncle Satgur Singh took his grandmother Jaswant Kaur to her maternal house Bahadurpur for meeting. On 07.09.2019, he was told that his grandmother suffered an attack and died. After that he was turned out from the house by his uncle Satgur Singh and his wife Gurpreet Kaur and her father Leela Singh by saying that now nothing was left there for him. That day, he came to his mother Rajwinder Kaur @ Raj now wife of Santrup Singh, resident of Ghandua, where after feeling heartbroken from his uncle Satgur Singh, his wife Gurpreet Kaur and her father namely Leela Singh, he drank poison used for spray in the agricultural fields. Before doing so, he also wrote that the above said persons would be responsible for his death and kept the writing in the pocket of his pant.

The petitioners have filed the present petition for quashing of the FIR on the grounds that now with the intervention of respectables

of the society, the matter has been amicably compromised between the parties.

This Court, while issuing notice of motion on 13.11.2019, passed the following order:-

"Learned Counsel for the petitioners while referring to Annexure P-2 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.53 dated 12.09.2019 registered under Sections 115 and 305 of the Indian Penal Code, 1860 at Police Station Dharamgarh, District Sangrur and all subsequent proceedings arising therefrom.

Notice of motion for 05.12.2019.

On the asking of the Court, Mr. Arun Kaundal, DAG, Punjab. accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Avtar Singh Sandhu, Advocate has appeared on behalf of respondents No.2 and 3 and admits the factum of compromise.

Copies of the paper book supplied to the learned Counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 21.11.2019 or any other date convenient to the Court 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. Current stage of the case.*

The trial Court is further 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 also directed to send the report in time so as to reach this Court before the date of hearing fixed. "

In terms of aforesaid order, learned Civil Judge(Jr. Divn.)-cum-Judicial Magistrate 1st Class, Sunam has recorded the statements of both the parties and submitted report dated 02.12.2019. The operative part of the same reads as under:-

"I have the honour to submit that in pursuance of said order, statement of accused persons were recorded on 21.11.2019, statement of IO was recorded on 23.11.2019 and statement of complainant was recorded on 30.11.2019. In her statement, the complainant Rajwinder Kaur @ Raj stated that the compromise has been effected with the accused in FIR no.53 dated 12.09.2019, under Section 115, 305 of IPC, P.S. Dharamgarh, with the intervention of respectables. The matter was compromised out of free will and without any pressure or coercion. She further stated that no other criminal case or proclamation proceedings are pending against her in any court. Complainant further stated that she has no objection if present FIR is quashed.

3. *Similarly, accused Sukhdev @ Satgur Singh, Gurpreet Kaur and Leela Singh suffered a joint statement that the matter in dispute has been compromised with the complainant Sandeep Singh (minor) son of Gurtej Singh through her mother Rajwinder Kaur with the intervention of respectables. They will remain bound by compromise and prayed for quashing of FIR. Both the complainant and accused placed on record copy of their Adhaar Card.*

4. *Further, statement of IO of the present case, SI Karam Singh was recorded and he has stated that in the present case there are total three accused namely Sukhdev Singh @ Satgur Singh, Gurpreet Kaur and Leela Singh. He further stated that neither any accused has been declared as proclaimed offender in the present case nor any criminal proceeding is pending against the parties involved in the present case except this case.*

5. *After recording the statements and after pursuing the record, it transpires that the compromise has been effected between the parties, which seems to be genuine, voluntary and without any pressure, coercion or undue influence. Complainant/ respondent and petitioner/*

accused appeared and made their statement regarding compromise. Hence, the report is hereby submitted as desired by the Hon'ble Punjab and Haryana High Court, Chandigarh. The report along with the copies of the statements of the parties is submitted accordingly."

A perusal of the aforesaid report clearly reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence.

Respondent No.2/complainant-Sandeep Singh has come present in Court today and made statement recorded separately to the effect that his date of birth is 07.07.2003. FIR in question was lodged on his complaint. He has compromised with his uncle through his mother. His uncle has transferred 3 acres of land in his name. He has no objection if the FIR is quashed.

Learned State counsel also has no objection in case the aforesaid FIR along with all subsequent proceedings arising therefrom is quashed on the basis of 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 judgment of this Court in ***Kulwinder Singh and others Vs. State of Punjab and Other : 2007(3) RCR (Criminal) 1052*** and judgments of Hon'ble Supreme Court in ***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 offences involved in the present case are overwhelmingly and predominantly of private character and have no social impact and have arisen out of family dispute. The parties have resolved their entire dispute among themselves. The settlement has been arrived immediately after the alleged commission of offences while the matter is still at the initial stage.

In view of the facts and circumstances of the case, the possibility of conviction 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.53 dated 12.09.2019 registered under Sections 115 and 305 of the IPC at Police Station Dharamgarh, District Sangrur (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition is allowed accordingly.

13.12.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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