

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

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CRM-M-48336-2019

Date of Decision :10.12.2019

Mahender and others

.....Petitioners

V/S

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Kuldeep Attri, Advocate
for the petitioners.

Mr. Arjun Singh Yadav, AAG, Haryana
for respondent No.1-State.

Mr. Kuldeep Sheoran, Advocate
for respondents No.2 and 3.

ARUN KUMAR TYAGI,J. (ORAL)

The petitioners- **Mahender, Ram Bhagat, Sandeep** and **Santro** 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.737 dated 28.07.2015 registered under Sections 323, 324, 325, 326, 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar, Hisar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 19.09.2019 (**Annexure P-2**) effected with respondents No.2 and 3- **Ravi and Hazari**.

The above said FIR was registered on statement of respondent No.2 Ravi in which Ravi alleged that he has a dispute with his uncle Mahender (petitioner No1) regarding the partition of the land.

On 27.07.2015 at 6 P.M. when he along with his father was working in

his fields, the petitioners-Mahender, his wife Santro Devi and his sons Ram Bhagat and Sandeep entered into their field and started abusing him and his father Hazari (respondent No.2). When Ravi and his father stopped them from doing so, Ram Bhagat gave a blow with his gandasi on the right foot of Ravi and Mahender gave a blow with iron rod on his left foot. Santro Devi and Sandeep who were having lathies gave blows on his knees and other parts of his body. They had also inflicted injuries to his father. Ravi and his father also inflicted injuries to the assailants in their defence. Upon hearing the noise, his uncle Om Parkash and owners of the adjacent fields came there on which the accused ran away from the spot. While going, the accused threatened to kill Ravi and his father.

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.

This Court, while issuing notice of motion on 14.11.2019, 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.737 dated 28.07.2015 registered under Sections 323, 324, 325, 326, 506 and 34 of the Indian Penal Code, 1860 at Police Station Sadar, District Hisar and all subsequent proceedings arising therefrom.

Notice of motion for 10.12.2019.

On the asking of the Court, Mr. Vivek Saini, D.A.G. Haryana accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Kuldeep Sheoran, Advocate has appeared on behalf of respondent No.2 and 3 and admits the factum of compromise.

Copies of the paper book has been 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 Judicial Magistrate Ist Class, Hisar has recorded the statements of both the parties and submitted report dated 03.12.2019. The relevant part of the same reads as under:-

*“.....in compliance of order passed in **CRM-M-48336-2019 dated 14.11.2019** passed by Lordship, Hon'ble Judge Shri Arun Kumar Tyagi, undersigned has recorded statements of complainant Ravi his father Hazari as well as accused namely Mahender, Ram Bhagat, Sandeep and Santro after being satisfied that the abovementioned persons were deposing voluntarily and out of their free will regarding the compromise. In this case affected person is complainant Ravi and his father Hazari and only four accused namely Mahender, Ram Bhagat, Sandeep and Santro. As per the record no accused has been declared proclaimed offender in this case.*

I have also heard the parties and counsels and gone through the statements of the parties as well as compromise and in the considered view of this Court the compromise has been effected voluntarily and without any pressure and maintaining peace and relations.”

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) 1050;

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. The parties have resolved their entire dispute among themselves. The compromise has been arrived at between the parties at the initial stage.

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 will be caused to the petitioners if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.737 dated 28.07.2015 registered under Sections 323, 324, 325, 326, 506 read with Section 34 of the IPC at Police Station Sadar, Hisar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

10.12.2019

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**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No