

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

246

CRM-M-48774-2019

Date of decision: 12.12.2019

Rahul Mahajan @ Money and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Rimple Saini, Advocate for
Mr. Dinesh Mahajan, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No.1.

Mr. Narender Kaajla, Advocate for
Mr. Hoshier Singh, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Rahul Mahajan @ Money and Rohit**

Mahajan @ Honey have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.176 dated 21.10.2019 registered under Sections 143, 323, 452 and 506 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Gurdaspur, District Gurdaspur (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 28.10.2019 (**Annexure P-2**) effected with respondent No.2-**Harpeet Masih**.

The above said FIR was registered on statement of respondent No.2-Harpeet Masih who alleged that he is working as Lab-Technician in Babbar Hospital Gurdaspur. On 20.10.2019 at about 02:15 PM, accused-Rahul Mahajan @ Money came to Babbar Hospital

and told him that one patient namely Pritam Raj had been admitted in the Hospital and asked him to show his bill to which the complainant replied that his bill was of about Rs.6,000/-. Thereupon, the accused started misbehaving with the female staff at counter and complained that they had intentionally made the bill on higher side. Thereafter, accused opened the door, entered in the room of Dr. K.S. Babbar and misbehaved with him also. The complainant tried to console him but he replied that he is a man of media and threatened the complainant that the complainant belongs to lower caste and he would teach him a lesson. Then, he called his brother Honey and 7/8 unknown persons at the hospital. They started scuffle with the staff and pushed the complainant and abused the staff. Dr. K.S. Babbar called the press reporter Vinod Gupta, who tried to stop them. After seeing the persons gathering there all the accused persons ran away. Motive for the occurrence was that the accused did not want to pay the bill for treatment of Pritam Raj.

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 and they have resolved their disputes and differences.

Recording of statements of the private parties was directed vide order dated 18.11.2019 passed by this Court which reads as under:-

"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.176 dated 21.10.2019 registered under Sections 323, 452, 143 and 506 of the Indian Penal Code, 1860 at Police Station City Gurdaspur and all subsequent

proceedings arising therefrom.

Notice of motion for 12.12.2019.

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. Hoshiar Singh, Advocate has appeared on behalf of respondent No.2 and filed his power of attorney which is taken on record. Learned Counsel for respondent No.2 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 25.11.2019 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court shall also record the statement of Dr. K. S. Babbar regarding the compromise. 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 Chief Judicial Magistrate, Gurdaspur has recorded the statements of the parties and submitted report dated 03.12.2019. The relevant part of the same reads as under:-

"It is further submitted that:-

(1) As per statement of Investigating Officer, there are 02 (two) persons arrayed as accused in FIR.

(2) As per statement of Investigating Officer, no accused has been declared as Proclaimed offender in this case.

(3) As all the parties to the petition have appeared for recording their statements, therefore, it appears that the compromise is genuine, voluntary and without any coercion or undue influence.

(4) As per statement of Investigating Officer, the accused persons are not involved in any other case.

(5) As per statement of Investigating Officer, the challan has not been presented in the Court."

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 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 : 2014 (2) RCR (Criminal) 482*** and ***State of Madhya Pradesh Vs. Laxmi Narayan and others : 2019 (2) RCR (Criminal) 255.***

The present case is overwhelmingly and predominantly of private character and has no social impact. The parties have resolved their entire dispute among themselves. The settlement 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 would be caused to the petitioners if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.176 dated 21.10.2019 registered under Sections 143, 323, 452 and 506 of the IPC at Police Station City Gurdaspur, District Gurdaspur (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition is allowed accordingly.

12.12.2019

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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