

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

245

CRM-M-48728-2019

Date of decision: 12.12.2019

Karamjit Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Joginder Pal Devgan, Advocate
for the petitioners.

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

Mr. Jasdev Singh Thind, Advocate for
Mr. Karanvir Singh Sandhu, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

The petitioners-**Karamjit Singh and Balwinder Kaur** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.132 dated 14.08.2019 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Patti, District Tarn Taran (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 18.10.2019 (**Annexure P-2**) effected with respondent No.2-**Ashok Kumar**.

Respondent No.2, complainant-Ashok Kumar submitted written complaint to Senior Superintendent of Police, Tarn Taran alleging therein that he purchased one house from accused-Balwinder Kaur wife of Karamjit Singh. The deal was made for Rs.15,25,000/-.

On 10.02.2018, Rs.5,00,000/- was given as earnest money to Balwinder

Kaur and her husband Karamjit Singh and sale deed was agreed to be executed and registered on 09.05.2018 but a few days before the sale deed, it was revealed that there was a loan of Punjab National Bank over the house. When, the complainant talked to the landlord about it, then they refused to pay the bank loan. On the basis of the complaint, the inquiry was marked to Anti-Fraud Cell, Tarn Taran, where both the parties were called and a compromise was effected between the parties and it was agreed that Balwinder Kaur and her husband Karamjit Singh would get the sale deed executed and registered on 09.11.2018 after making the payment of loan but lateron they resiled/backed out from the compromise and neither cleared the loan nor executed the sale deed. In view of the complaint, above said FIR was registered.

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 16.11.2019, 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.132 dated 14.08.2019 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station City Patti, District Tarn Taran and all subsequent proceedings arising therefrom.

Notice of motion for 12.12.2019.

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

At this stage, Mr. Karanvir Singh Sandhu, Advocate has appeared on behalf of respondent No.2 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 22.11.2019 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 Sub Divisional Judicial Magistrate, Patti has recorded the statements of the parties and submitted report dated 05.12.2019. The relevant part of the same reads as under:-

"In pursuance of Order dated 16.11.2019, passed by Hon'ble Punjab and Haryana High Court in subject cited case, petitioners Karamjit Singh and Balwinder Kaur appeared before this Court for recording their statements with regard to compromise on 22.11.2019 and got recorded in their joint statement that they have entered into compromise with complainant i.e. Respondent No.2 Ashok Kumar out of their own sweet will and without any pressure or coercion. They requested that FIR registered against them be ordered to be quashed on the basis of compromise. Respondent no.2 Ashok Kumar also appeared to record his statement regarding compromise on 22.11.2019 and suffered statement that he has entered into compromise with accused Karamjit Singh and Balwinder Kaur without any pressure and coercion and he has no objection if the FIR be quashed. So, I am satisfied that the compromise arrived between the parties who appeared before the undersigned for recording their statements, is genuine and valid one.

As per statement recorded by ASI Resham Singh No.941/T.T., P.s. City Patti, as per FIR there are total of two accused namely Karamjit Singh and Balwinder Kaur, who are petitioners before Hon'ble Punjab and Haryana

High Court and none of them has been declared proclaimed offender. There is no other case against the accused Karamjit Singh and Balwinder Kaur and present case is at investigation stage and challan has not been presented till date. As per investigating officer, there is only one victim/complainant i.e. Ashok Kumar, who is respondent no.2 before Hon'ble Punjab & Haryana High Court."

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. 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 civil character. The parties have resolved their entire dispute among themselves. The compromise has been arrived between the parties at the initial stage as the matter is pending for investigation.

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 case is not quashed. Therefore, FIR No.132 dated 14.08.2019 registered under Sections 420 and 120-B of the IPC at Police Station City Patti, District Tarn Taran (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

12.12.2019

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(ARUN KUMAR TYAGI)
JUDGE

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