

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

249

CRM-M-48914-2019

Date of Decision : 12.12.2019

Kirandeep Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. H.P.S. Ghuman, Advocate
for the petitioners.

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

Mr. P.S.Miglani, Advocate
for Mr. Naveen Kumar, Advocate
for respondent No. 2

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner-**Kirandeep Singh, Gursewak Singh and Sona** 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.43 dated 18.03.2019 registered under Section 306 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar Nabha, District Patiala (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 07.10.2019 (**Annexure P-2**).

The above said FIR was registered on statement of respondent No.2-Kaka Ram. In his statement, Kaka Ram alleged that his youngest son Tarsem Kumar alias Vijay Kumar, who worked as welder in workshop at Nabha, had fallen in love with his neighbour's daughter Khushi.

On coming to know about the same, parents and brother of the girl called both his sons and both of them alongwith Bali, friend of his younger son went to their house where Sona mother and Gursewak Singh @ Kalu brother of Khushi set a condition that they cannot send their girl in neighbourhood and shall perform marriage with Tarsem Kumar alias Vijay Kumar only if he purchased a 100 square yards plot and transferred the same in the name of Khushi. Due to lack of funds his son could not buy the plot. Thereafter, Sona, mother and Gursewak Singh alias Kalu brother of Khushi and one supporter started threatening them that if Tarsem Kumar alias Vijay Kumar performed marriage with Khushi, he would be killed. Due to the said reasons his son started remaining tense. On 17.03.2019 when the entire family was out for their daily jobs and his daughter in law was also away to her parents, Tarsem Kumar alias Vijay Kumar committed suicide by hanging himself from the ceiling fan. On checking of his mobile phone, it was found that he had uploaded a video on facebook where he had accused the family members of Khushi and Kirandeep Singh alias Kirni being the cause of his death.

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 18.11.2019, 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.43 dated 18.03.2019 registered under Section 306 of the Indian Penal Code, 1860 at Police Station Sadar Nabha, District Patiala 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. Naveen Kumar, Advocate has appeared on behalf of respondent No.2-Kaka Ram and filed his power of attorney and admits the factum of compromise.

Copies of the paper book have been 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/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 1st Class, Nabha has recorded the statements of both the parties and submitted report dated 09.12.2019. The relevant part of the same reads as under:-

“.....it is respectfully submitted that accused persons and

complainant appeared before the undersigned. The statements of accused party namely Kirandeep Singh, s/o Harmail Singh r/o Village Thuhi Tehsil Nabha District Patiala, Gursewak Singh s/o Sh. Darshan Singh, Sona w/o Darshan Singh both resident of Narata Colony Nabha District Patiala and complainant Kaka Ram, s/o Ram Nihor; r/o village Rohta Tehsil Nabha District Patiala has been recorded regarding the compromise. Statement of IO/Investigating Officer also recorded so as to know how many victims/complainant are in the present FIR. After going through the statements so recorded, it is clear that compromise arrived between the parties voluntarily and without any pressure. The said compromise is genuine.

It is further respectfully submitted that total numbers of accused persons in this case are three and no accused has been declared absconder/proclaimed offender in this case and they are not involved in any other case except this one. As far as victim/complainant in the present FIR is concerned, there was only victim namely Tarsem Singh @ Vijay who has died now and the complainant in the present case is Kaka Singh s/o Ram Nihor upon whose complaint the present FIR has been lodged. The challan is not presented so far and investigation of present FIR is still going on.”

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondent No.2 and gone through the relevant record.

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) R.C.R. (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.**

A perusal of the report of learned Judicial Magistrate Ist Class, Nabha 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 the compromise effected between the parties in this case.

The offence involved in 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 while the matter is under investigation.

In view of the facts and circumstances of the case the possibility of conviction of the petitioners is very 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. 43 dated 18.03.2019 registered under Section 306 of the IPC at Police Station Sadar Nabha, District Patiala (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

12.12.2019

Kavneet Singh

(ARUN KUMAR TYAGI)
JUDGE

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