

CRM-M-14165-2020 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-14165-2020 (O&M)

Date of Decision: 24th July, 2020

Amandeep Singh & others

...Petitioners

Versus

State of Punjab & another

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate for the petitioners.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. Karanjit Singh, Advocate
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 05.03.2019 (Annexure P-9) passed by the Judicial Magistrate First Class, Ludhiana, whereby petitioner No.4 – Harsimran Ahuja was declared as Proclaimed Offender and for quashing of FIR No.13 dated 20.01.2018, under Sections 307, 323 and 34 of the Indian Penal Code (hereinafter referred to as 'IPC') and Section 27 of the Arms Act, registered at Police Station Moti Nagar, District Ludhiana, (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of compromise dated 29.04.2020 (Annexure P-7) entered into between the petitioners and respondent No.2-complainant.

It is the contention of the learned senior counsel for the

petitioners that after the registration of the FIR and the petitioners having participated in the investigation, when the police submitted a cancellation report on 07.05.2018 (Annexure P-6), petitioner No.4 proceeded to Canada. It is thereafter that the said cancellation report has not been accepted and the matter was pursued. Petitioner No.4 was never served in the proceedings and was declared as Proclaimed Offender vide order dated 05.03.2019 (Annexure P-9). His submission is that the dispute is amongst the family members. Complainant Shri Narain Singh son of late Shri Harbans Singh is the father of petitioners No.1 and 2 and grand-father of petitioners No.3 and 4. Now the dispute has been amicably settled between the parties by way of written compromise dated 29.04.2020 (Annexure P-7). The said aspect was acknowledged by the counsel for the complainant when the case came up for hearing before this Court initially on 16.06.2020 and following order was passed:-

“Heard through video conferencing.

The petitioners are seeking quashing of FIR No.13 dated 20.01.2018 (Annexure P1), under Sections 307, 323 and 34 of the Indian Penal Code, 1860 (‘IPC’ - for short), besides Section 27 of the Arms Act, 1959, registered at Police Station Moti Nagar, Ludhiana, on the basis of compromise (Annexure P7) arrived at between the parties.

Learned senior counsel appearing for the petitioners inter alia contends that the FIR is the outcome of a family dispute between the parties which has now been resolved. He also contends that although the offence punishable under Section 307 IPC has been invoked, but no one was injured in the occurrence. He also contends

that the petitioners are the sons and grandsons of respondent No. 2, who is the complainant.

Issue notice to the respondents.

At the asking of the Court, Mr. Dhruv Dayal, Senior DAG, Punjab, accepts notice on behalf of respondent No. 1-State.

Mr. Karanjit Singh, Advocate, has put in appearance on behalf of respondent No.2/complainant. He states that the matter has indeed been compromised between the parties and he has 'no objection' if the FIR is quashed.

List on 09.07.2020.

In the meantime, the parties are directed to appear before the trial Court/Duty Magistrate on 30.06.2020. The trial Court/Duty Magistrate shall record their statements with regard to genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.”

When the parties could not appear before the Court, the matter was again taken up for hearing on 16.07.2020 when this Court granted another opportunity to appear before the trial Court/Duty Magistrate to record their statements with regard to the genuineness of the compromise as to whether the same has been effected between them without any undue influence or coercion and send a report to this Court. In pursuance to the said order, now a report dated 20.07.2020 has been received from the learned Additional Sessions Judge, Ludhiana, where he has concluded that the compromise entered into between the parties is genuine and the same has been effected between them without any undue influence or coercion. It

has also been mentioned that the statement of petitioner No.4 has been recorded through video conferencing. The complainant has also accepted the factum of compromise and he had no objection in case the order declaring petitioner No.4 as Proclaimed Offender is quashed as also the FIR, which was recorded on his statement. Prayer has, thus, been made by the learned senior counsel for the petitioners for quashing the order dated 05.03.2019 (Annexure P-9) passed by the Judicial Magistrate First Class, Ludhiana and FIR No.13 dated 20.01.2018, under Sections 307, 323 and 34 of IPC and Section 27 of the Arms Act, registered at Police Station Moti Nagar, District Ludhiana, (Annexure P-1) along with all consequential proceedings arising therefrom.

Counsel for the complainant again reiterated the fact that the complainant has no objection to the prayer made in the present petition and acknowledges the fact that a compromise has been entered into between the parties.

Taking into consideration the above facts and circumstance of the case especially when the dispute was between the family itself i.e. between the father and sons and grand-father and grand-sons, the matter having sorted out and settled, interest of justice would be duly served by putting an end to the dispute especially when the matter stands compromised on 29.04.2020 (Annexure P-7), which compromise has been found to be genuine as per the report referred to above.

In the light of the above and the ratio of judgment of the Hon'ble Supreme Court in ***Criminal Appeal No.1723 of 2017***, titled as ***'Parbatbhai Aahir @ Parbhabhai Bhimsinhbhai Karmur & others Vs.***

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State of Gujarat & another, decided on 04.10.2017 and in the judgment of ***Narinder Singh & others Vs. State of Punjab & another, 2014 (2) R.C.R. (Criminal) 482*** as also the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another, 2007 (3) RCR (Criminal) 1052***, the present petition is allowed. Order dated 05.03.2019 (Annexure P-9) passed by the Judicial Magistrate First Class, Ludhiana, declaring petitioner No.4 as Proclaimed Offender and FIR No.13 dated 20.01.2018, under Sections 307, 323 and 34 of IPC and Section 27 of the Arms Act, registered at Police Station Moti Nagar, District Ludhiana, (Annexure P-1) along with all consequential proceedings arising therefrom are hereby quashed qua the present petitioners only.

24th July, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No