

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

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CRM-M-26073-2020
Date of decision: 29.10.2020

Harpal Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Mr. H.S. Multani, Asstt. AG, Punjab
for respondent No.1-State.

Mr. Nitin Sharma, Advocate
for respondent No.2/complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioner-**Harpal Singh** has 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.155 dated 01.12.2019 registered under Sections 452, 336, 354, 506, 148 and 149 of the Indian Penal Code, 1860 (for short, "the IPC") and Section 27 of the Arms Act, 1959 at Police Station Raja Sansi, District Amritsar (**Annexure P-1**) with all consequential proceedings arising therefrom in view of the compromise dated 25.08.2020 (**Annexure P-2**) effected with respondent No.2-**Gian Kaur**.

The above said FIR was registered on statement of respondent No.2 who alleged that on 01.12.2019 at about 05:00 P.M. when she was present in her house and other family members had gone

out for work, the petitioner along with 30/35 unidentified persons trespassed into her house and started raising lalkaras. The petitioner asked her about whereabouts of her son Surjit Singh to which she replied that her son had gone to get medicines. The petitioner and persons accompanying him started damaging her household goods, broke glass windows and also tore her clothes. In the meanwhile her son Phuman Singh, who is residing nearby, reached there and threw a stone at the petitioner who retaliated by throwing a stone at him. The unidentified persons accompanying the petitioner opened fire with .12 bore gun. The petitioner also broke glasses with butt of the rifle. When the villagers started gathering there, the petitioner along with other persons fled away raising lalkara from the site in their vehicle.

The petitioner has 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 and they have resolved their differences.

Vide order dated 08.09.2020, this Court had directed the petitioner and respondent No.2/complainant to file affidavits in respect of execution of the compromise between them and to remain present before this Court through video conferencing.

In compliance with the above said order, the petitioner and respondent No.2/complainant filed their affidavits dated 18.09.2020 admitting execution of compromise (**Annexure P-2**).

The petitioner and respondent No.2/complainant also appeared before this Court through video conferencing on 28.09.2020 and admitted the execution of the compromise. On being asked, they

also submitted that they had voluntarily entered into the compromise.

Reply by way of affidavit of Gurpartap Singh Sahota, P.P.S., Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) on behalf of respondent No.1-State has been filed in the registry which is taken on record. In the reply it has been mentioned that respondent No.2/complainant gave her statement dated 16.09.2020 to ASI Manjit Singh and admitted the factum of compromise in her statement and stated that she did not want any action to be taken in the case and had no objection if the case is cancelled. However, the offences committed are non-compoundable. One of the unidentified accomplice fired shots from his .12 bore gun to create atmosphere of fear in the village. Offence under the Arms Act, 1959 being against the State cannot be quashed in view of judgment of Hon'ble Supreme Court in *State of Madhya Pradesh Vs Laxmi Narayan and others, CRA No.349 of 2019*.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for respondent No.2/complainant 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) RCR (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.***

In the present case, there is no mention in the reply filed by respondent No.1-State of any empty cartridges having been recovered from the spot. There is no other cogent evidence as to firing of the shots and also identification of the person concerned. The allegations appear to have been made by way of exaggeration. The offences involved in the present case are overwhelmingly and predominantly of private character as the occurrence took place due to dispute between the parties over fencing. The parties have resolved their entire dispute among themselves. The matter is pending for investigation. The

compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society. In the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak. Continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed.

In view of the above, the petition is allowed and FIR No.155 dated 01.12.2019 registered under Sections 452, 336, 354, 506, 148 and 149 of the IPC and Section 27 of the Arms Act, 1959 at Police Station Raja Sansi, District Amritsar (**Annexure P-1**) is quashed with all consequential proceedings arising therefrom.

29.10.2020

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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