

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

223/2

**CRM-M-26493-2020
Date of decision: 02.11.2020**

Arjun and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Munish Puri, Advocate
for the petitioners.

Mr. N.K. Banka, DAG, Punjab
for the respondent No.1-State.

Mr. Sandeep Saini, Advocate
for respondents No.2 and 3.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-Arjun, Karan Singh, Rahul @ smile, Ritik, Aman and Kulveer Singh have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 102 dated 09.06.2020 registered under Sections 148, 341, 323 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Shahpur Kandi, District Pathankot (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 27.06.2020 (**Annexure P-2**) effected with respondents No.2 and 3-Sahil and Ashok Kumar.

The above said FIR was registered on statement of respondent No.2-Sahil who alleged that on 07.06.2020 at about 07:45 P.M., Karan Singh came to his shop and asked for two tables of loose motion in response to which he told Karan Singh that he had a wholesale shop and he could not waste his medicine strip by giving 1/2

tablets out of it and Karan Singh could take 1/2 tablets from the doctor. Then, Karan Singh by pointing his finger towards his father said that he was not a doctor and abused his father. When the complainant and his father Ashok Kumar objected Karan Singh went away while abusing. On the same night Karan Singh's nephew Smile came to their house and abused them. On 08.06.2020 at about 07:30 P.M. when he and his father were going to their house after closing shops, then Karan Singh, Smile and Ritik armed with dang, Aman, Kulvir Singh @ Jimmy, Arjan Billa Chakki Wala empty handed stopped them and raised lalkara to teach a lesson to the complainant and his father Ashok Kumar. Karan Singh gave blow on his head with dang and Smile gave blow with dang on his waist. When his father tried to rescue him then they pushed his father. When they raised alarm the aforesaid persons ran away from the spot with their respective weapons.

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 and they have resolved their differences.

Vide order dated 29.09.2020, this Court directed the private parties to appear before the trial Court/Illaqa Magistrate within two weeks or any other date convenient to the Court for recording their statements with regard to compromise/settlement and directed the Trial Court/Illaqa Magistrate to submit a report before 02.11.2020 regarding the genuineness and voluntary nature of the compromise.

In compliance of the above said order, learned Chief Judicial Magistrate, Pathankot has recorded the statements of both the

parties and submitted report dated 20.10.2020. The relevant part of the same reads as under:-

".....In compliance thereof, complainant Sahil and Ashok Kumar have suffered joint statement that, the matter has been compromised between them and accused party consisting of Arjun, Karan Singh, Rahul @ Smile, Ritik, Aman, Kulbir Singh @ Jimmy. Said compromise is arrived between them due to intervention of family members and respectables, in order to maintain good future relation and harmony between them. Said compromise is voluntarily, without any force and without pressure by the accused party. They both are complainants in this FIR and they do not want to proceed against the accused in the FIR No.102 dated 09.06.2020, under Sections 341, 323, 506, 148 and 149 IPC registered at police station Shahpurkandi. They have no objection if the FIR against all the accused persons is quashed.

All the accused namely Arjun, Karan Singh, Rahul @ Smile, Ritik, Aman, Kulbir Singh @ Jimmy have suffered joint statement that, they are accused in this case. They have compromised the matter in the FIR No.102 dated 09.06.2020, under Sections 341, 323, 506, 148 and 149 IPC registered at police station Shahpurkandi with complainants with the intervention of respectables without any pressure and compromise is genuine, voluntarily and they have no coercion against the complainant. It is prayed that, FIR along-with subsequent proceedings may kindly be quashed. There is no other criminal case pending against them.

Keeping in view all aspects and statements of complainants and accused, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is voluntary and without any threat or force.

Report of the court as follows:-

(i) As per record, six persons are arrayed as accused in FIR.

(ii) As per record, none of the accused person involved in this case has been declared proclaimed offender.

(iii) Compromise effected between the parties is genuine, voluntarily and without any coercion or undue influence.

(iv) As per statement of accused, they are not involved in any other FIR.

(v) As per record, Challan has not presented in said FIR till date.

It is further submitted that, as per statement of ASI Lekh Raj, No. 1020/Gsp recorded by this Court, there are only two complainants namely Sahil and Ashok Kumar in present FIR.”

The respondent No.-1-State has not filed any reply to the petition despite opportunity granted for this purpose.

I have heard learned counsel for the petitioners, learned State counsel and learned counsel for respondents No.2 and 3 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 ***Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482, State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255 and Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052.***

A perusal of the report of Chief Judicial Magistrate, Pathankot 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.

The offences involved in the present case are overwhelmingly and predominantly of private character and do not have any social impact. The parties have resolved their entire dispute

among themselves. 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 view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak. 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.

In view of the above discussion, FIR No.102 dated 09.06.2020 registered under Sections 148, 341, 323 and 506 read with Section 149 of the IPC at Police Station Shahpur Kandi, District Pathankot (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

02.11.2020
vishal

(ARUN KUMAR TYAGI)
JUDGE

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