

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

224

**CRM-M-27846-2020
Date of decision: 02.11.2020**

Sushil Kumar @ Rinku and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ravi Kumar Mattoo, Advocate
for the petitioners.

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

Mr. Mayur Karkra, Advocate
for respondent No.2 and 3.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Sushil Kumar @ Rinku, Pankaj Kumar and Gurdeep Singh** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.128 dated 05.06.2020 registered under Sections 365, 368 and 120-B of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Rajpura, District Patiala (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 22.06.2020 (**Annexure P-3**) effected with respondent No.2-Sanampreet Singh.

The above said FIR was registered on statement of respondent No.2-Sanampreet Singh. In his statement Sanampreet Singh alleged that on 04.06.2020 at about 4:00 p.m. he received a call from

accused Rinku Sharma asking him to come for going to the Bank and he accordingly joined him and went by his car to a factory near Holy Angel School where accused Gurdeep Singh and accused Pankaj were also present. They all tied him in the factory and started threatening him. Accused Rinku Sharma and Accused Gurdeep Singh asked him to transfer his house or car in their name. When he refused they started beating him on which he agreed to transfer his car in their name on which they opened his hands. On the pretext of getting fresh he went to the bathroom and informed the police who reached the spot and rescued him from the clutches of the accused.

The petitioners have filed the present petition for quashing of the FIR on the grounds that now the matter has been amicably compromised between the parties.

Vide order dated 15.09.2020, this Court directed the private parties to appear before the trial Court/Illaq Magistrate on 22.09.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement and directed the Trial Court/Illaq Magistrate to submit a report before the next date of hearing i.e. on 02.11.2020 regarding the genuineness and voluntary nature of the compromise.

In compliance of the above said order, learned Judicial Magistrate First Class, Rajpura has recorded the statements of both the parties and submitted report dated 25.09.2020. The relevant part of the same reads as under:-

".....it is humbly submitted that in pursuance of the order dated 15.09.2020, on 22.09.2020, complainant Sanampreet Singh, his wife Shivani along-with all the

accused namely Sushil Kumar @ Rinku s/o Pawan Kumar, Pankaj Kumar s/o Raj Kumar and Gurdeep Singh s/o Sohan Singh appeared before the Court of undersigned. They got recorded their statements. As per the statement of all the above named accused, the compromise has been effected between themselves and the complainant/victim Sanampreet Singh and his wife Shivani. The said compromise is voluntarily, without any pressure or coercion and with free will of the parties. Complainant and accused are identified by Sh. Aman Bansal, Advocate and Sh. Simratpal Singh, Adv.

The undersigned has inquired from the accused and complainant that if the compromise is with their free will, to which they replied in affirmative. The compromise has been effected between the complainant and the accused persons is voluntary, without any pressure or coercion and is genuine one.

As per above said order, the Hon'ble High Court has also desired information upon following points:-

- (i) Number of persons arrayed as accused in the FIR.*
- (ii) Whether any accused is proclaimed offender, and,*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- (iv) Whether the accused persons are involved in any other case or not.*
- (v) 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.

On point no. (i), it is submitted that the present FIR was registered on the statement of Sanampreet Singh @ Rinku s/o Sh. Tirlok Singh R/o Prem Nagar, Near Amar

Palace, Rajpura on dated 04.06.2020 under Section 365,368,120-B IPC, PS City, Rajpura. A total three accused namely Sushil Kumar @ Rinku S/o Pawan Kumar, Pankaj Kumar S/o Raj Kumar and Gurdeep Singh S/o Sohan Singh were involved in the present case.

On Point No. (ii), it is submitted that none of the accused has been declared proclaimed offender in the present case.

On point no. (iii), it is submitted that the compromise entered between accused persons namely Sushil Kumar @ Rinku S/o Pawan Kumar, Pankaj Kumar S/o Raj Kumar and Gurdeep Singh S/o Sohan Singh and complainant/Victim Sanampreet Singh and his wife Shivani is voluntary without any pressure and coercion and voluntear one.

On Point No. (iv) it is submitted that as per statement of IO, accused namely Sushil Kumar @ Rinku S/o Pawan Kumar and Pankaj Kumar S/o Raj Kumar have not been found involved in any other criminal activity and no any FIR is registered against above named accused. As per statement of SI Sukhwinder Singh No. 166/PTA of PC City, Rajpura, accused namely Gurdeep Singh S/o Sohan Singh has been found involved in FIR No. 61 dated 12-03-2012 U/s 447, 511 and 34 of IPC of PS City, Rajpura, but he has been acquitted in that FIR. He has also been found involved in FIR No. 230 dated 25-07-2018 under sections 323, 341, 506, 147 and 149 of IPC at PS City, Rajpura. FIR No.57 dated 13.03.2020 U/s 406 of IPC and FIR No.129 dated 05.06.2020 U/s 420, 465, 468, 471 and 120-B of IPC at PS City, Rajpura, all these matters are under investigation before the police. Separate statement of ASI Sukhwinder Singh in this regard also recorded."

On point (v), it is submitted that the present case is being investigated by the police.

There is only one complainant/victim namely

Sanampreet Singh in this case and there is no any other complainant/victim in the present case.”

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 respondent 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 Judicial Magistrate First Class, Rajpura, District Patiala 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.

Accordingly, FIR No. 128 dated 05.06.2020 registered under Sections 365, 368 and 120-B of the IPC at Police Station City Rajpura,

District Patiala (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

02.11.2020

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(ARUN KUMAR TYAGI)
JUDGE

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