

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

281

CRM-M-31933-2019

Date of Decision:06.02.2020

Birbal and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Ankur Lal, Advocate,
for the petitioners.**

Ms. Priyanka Sadar, AAG, Haryana.

None for respondent Nos.2 to 5.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing complaint No.RBT/267/2017 instituted on 13.05.2015, titled as “Krishan Versus Birbal and others” filed by respondent No-2-Krishan Kumar against the petitioners under Sections 323, 354, 506, 34 IPC (Annexure P-1), summoning order dated 02.06.2018(Annexure P-2) passed by learned Judicial Magistrate 1st Class, Kaithal and all the consequential proceedings arising therefrom on the basis of compromise dated 17.07.2019 (Annexure P-3).

As per complaint filed by respondent No.2-Krishan Kumar, on 27.04.2015 at about 09.30 AM, the complainant along with his sister Santosh, wife Roshni and nephew Vishal was present in the judicial court premises, Kaithal in a claim petition filed under the Motor Vehicles Act,

1988. One motorcyclist passed his motorcycle over his feet. Petitioner No.6-Rajbir Singh who was a traffic constable was present there. The complainant made a complaint for the act of the motorcyclist. However, accused-petitioner No.6 Rajbir Singh instead of saying anything to the motorcyclist, rather started arguing with the complainant and gave slap to the complainant. The complainant had visited the Civil Hospital, Kaithal for medical examination. He has also visited the Civil Line Police Station for action against petitioner No.6 as well. Therefore, the concerned SHO asked the complainant to call for the accused Rajbir Singh in the police station. When the complainant reached to the judicial court complex at about 12.00 noon, the accused Rajbir Singh and ASI Birbal were present there and on seeing the complainant they caught hold of him from his hair and pushed the complainant towards the wall. Due to this impact, the complainant started bleeding and he fell on the ground. Thereafter, accused Birbal hit the complainant from his feet on the right side of his (complainant) chest.

On hearing the noise, complainant's sister Santosh, nephew Vishal and wife Roshni also came on the spot. They tried to rescue the complainant, but the accused Birbal slapped Santosh on her right cheek, whereas accused Rajbir Singh gave fist blows on the right eye of Santosh. Accused Birbal gave fist blow on Roshni's head and Rajbir hit on her face. Thereafter, accused Birbal hit Roshni on her thighs. Accused Ashok Kumar, ASI Kashmir Singh, Constable Raj Kumar, ASI Ishwar Singh, Constable Rajbir and Lady Constable Suman came in the gypsy and accused SHO Ashok Kumar hit the complainant with the danda on his right shoulder. Then accused Kashmir Singh ASI hit on the right leg of the

complainant. Accused Ishar ASI hit the complainant on his right leg and left knee with the danda. Accused Lady Constable Suman hit on Santosh's neck with fist blow. Accused Ashok Kumar hit on Santosh's feet and accused Raj Kumar hit on the left arm of Santosh. Lady Constable Suman slapped on her(Santosh) right ear. Accused Ashok Kumar hit Roshni's right feet. Many persons along with Dariya Ram and Atma Ram had seen this incident. Further all the accused persons took the complainant along with Roshni, Santosh and Vishal to the Civil Line Police Station, Kaithal. Many persons from the public requested the concerned police officials to leave the complainant-party, but they did not listen to the public and in front of the public persons also, all the accused persons hit the complainant, Santosh, Roshni and Vishal with slaps and fist blows. Further accsued Birbal and Ashok torn the clothes of Santosh and Roshni and they also misbehaved with them. They outraged the modesty of Santosh and Roshni, but the police persons have lodged a false FIR No.124 dated 27.4.2015 under Sections 186, 353, 182 IPC against the complainant-party.

The accused persons were produced before the Judicial Magistrate and on the request of accused persons, their medical examination was conducted on 30.04.2015. The accused persons were granted bail on 04.05.2015 and on 08.05.2015, these police officials reached to the house of the complainant and threatened them with dire consequences in case any action is taken against them by the complainant-party.

In the aforesaid complaint, learned Magistrate has summoned the accused to face trial for offences under Sections 323, 354, 506 read with Section 34 IPC.

The present petition has been filed, so as to quash the complaint

on the basis of compromise dated 17.07.2019(Annexure P-3) which is signed by the aggrieved persons/complainant and other injured i.e. Krishan Kumar, Santosh, Roshni and Vishal(respondent Nos.2 to 5), which has duly been notarized by the Notary Public, Kaithal on 17.07.2019.

Taking into consideration the fact that the matter has been compromised between the parties, vide order dated 26.07.2019, this Court had directed the parties to appear before the trial Court/Illaq Magistrate to get their statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, parties have appeared before learned Judicial Magistrate 1st Class, Kaithal and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 23.09.2019 to the effect that the compromise is genuine and has been arrived between the parties without any pressure. Learned Magistrate had shown his satisfaction as regards the compromise so arrived at between the parties.

Respondent Nos.2 to 5 have been served, but no one is present on their behalf to controvert the factum of compromise arrived at between the parties, though on earlier occasion, presence was recorded on behalf of respondent Nos.2 to 5. Non-presence of respondent Nos.2 to 5 lead to an inference that they have no objection to quashing the complaint filed by them.

Respondent Nos.2 to 5 have made a joint statement with regard to compromise before learned Magistrate and this statement is duly identified by Sh. P.P. Kaushik, Advocate. The same is reproduced as under:-

reached on compromise amicably with the intervention of respectable. Now there is no dispute pending between us. We had filed the present complaint against the accused person, Now, we do not want to proceed with the complaint and we do not want any action on this complaint. The compromise is for the benefit of both the parties. We have filed a petition before the Hon'ble High Court for quashing of complaint. We have no objection if the complaint is quashed and the accused are acquitted in the present complaint by the Hon'ble High Court. The compromise has taken place with our free will and consent without any coercion and undue pressure and the compromise is in the benefit of both the parties.”

Learned State counsel has not disputed the factum of compromise between the parties.

Taking into consideration the compromise-deed attached with the petition, in support of the compromise having been arrived at which has duly been notarized on 17.07.2019, attached with this petition Annexure P-3, coupled with the report dated 23.09.2019, which is accompanied with the statements of the parties recorded before learned Judicial Magistrate 1st Class, Kaithal, this Court finds that the present petition deserves to be accepted.

In view of the above, no useful purpose would be served to continue with the proceedings before the trial Court in the instant case.

Thus, following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052***, as approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303***, this petition is allowed and complaint No.RBT/267/2017 instituted on 13.05.2015, titled as “Krishan Versus

Birbal and others” under Sections 323, 354, 506, 34 IPC(Annexure P-1), summoning order dated 02.06.2018(Annexure P-2) passed by learned Judicial Magistrate 1st Class, Kaithal and all the consequential proceedings arising therefrom are hereby quashed qua the petitioners-accused on the basis of compromise dated 17.07.2019(Annexure P-3).

February 06, 2020
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(HARI PAL VERMA)
JUDGE

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