

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

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**CRM-M-36530-2019
Date of decision: 20.01.2020**

Satwant Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikasdeep Singh, Advocate
for the petitioners.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No.1.

Mr. Nagar Singh, Advocate for
Mr. Gurpreet Singh, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-Satwant Singh, Daljot Singh, Karanpreet Singh,
Sukhpreet Singh, Gagandeep Singh and Rupinder Singh have 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.3 dated 02.01.2018
registered under Sections 323, 324, 148 and 149 of the Indian Penal Code,
1860 (for short "the IPC") at Police Station Sultanpur Lodhi, District
Kapurthala (**Annexure P-1**) to which Section 326 of the IPC was added
lateron along with all consequential proceedings arising therefrom in view
of the compromise dated 17.07.2019 (**Annexure P-2**) effected with
respondent No.2-**Harwinderpal Singh @ Shanu**.

The above said FIR was registered on the statement of

respondent No.2-Harwinderpal Singh @ Shanu, who in his statement alleged that on 12.12.2017, accused Satwant Singh, Daljot Singh, Karanpreet Singh, Sukhpreet Singh, Gagandeep Singh and Rupinder Singh (petitioners in the present case) along with Kamal, Sattu, Shubh, Pindi, Preet and Sukha formed unlawful assembly and voluntarily caused simple hurt with blunt and sharp edged weapons and grievous hurt with sharp edged weapons to him.

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.

The Coordinate Bench of this Court, while issuing notice of motion on 02.09.2019, passed the following order:-

"Heard.

Learned counsel for the petitioners submits that the dispute has been amicably settled with respondent no. 2, vide compromise copy of which has been placed on file as Annexure P-2.

Notice of motion.

Mr. Gurpreet Singh, Advocate has put in appearance on behalf of respondent no.2 and has filed memo of appearance. He endorses the submission of learned counsel for the petitioners.

Parties may appear before concerned trial Court on 29.10.2019 or on any other date convenient to trial Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before trial Court. In the event of their statements being recorded, trial Court will send copies of the same to this Court with its report:

(i) regarding genuineness and voluntary nature of the compromise;

(ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

(iii) whether any other proceeding is pending against the

accused/petitioners.

Report of trial Court be awaited for 20.01.2020."

In compliance with the above said order, learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi has recorded the statements of both the parties and submitted report dated 15.11.2019. The relevant part of the same reads as under:-

"In accordance with the aforesaid order, parties were directed to appear before the Trial Court on 29.10.2019 for getting their statements recorded in support of compromise.

In pursuance of aforesaid order, both the parties i.e. petitioners/accused namely Satwant Singh son of Jasbir Singh, Daljot Singh son of Anoop Singh, Karanpreet Singh son of Dalbir Singh, Sukhpreet Singh son of Joginder Singh, all residents of village Dhudhianwal, Tehsil & District Kapurthala, Gagandeep Singh son of Sarabjit Singh, resident of RCF Kapurthala, and Rupinder Singh son of Kuldeep Singh, resident of village Kaul Talwandi, Tehsil & District Kapurthala, as well as respondent/complainant namely Harwinderpal Singh @ Shanu son of Surinderpal Singh, resident of Kartar Nagar, Gate No.2, RCF, District Kapurthala, appeared in the Court and got recorded their statements before the undersigned with regard to compromise of the matter in the above said criminal miscellaneous.

(i) Both the parties have effected compromise which is genuine, voluntary and are not the result of any threat, pressure or coercion etc. in any manner.

(ii) All the petitioners/accused are appearing before the Court and are on bail.

(iii) As per statement of investigating officer, no other proceedings is pending against the accused/petitioners.

It is pertinent to mention here that as per statement of investigating officer, FIR No.03 dated 02.01.2018 was registered U/s 323,324,148,149 IPC and later on offence 326 IPC was added. An inquiry was conducted by DSP Sultanpur Lodhi on the basis of application dated 03.01.2018 moved by Dhian Singh and inquiry was conducted by SP (Headquarter) Kapurthala on the basis of application dated 25.01.2018 moved by Superinderpal Singh. On the basis of above said inquiries report, offence punishable under Section 323, 324, 326, 148 and 149 IPC were deleted and inquiry reports were approved by SSP Kapurthala. From the above said inquiry

reports, offence punishable under Section 160 IPC was found to be made out against the accused and challan was presented in the Court for offences punishable under Section 160 IPC."

It may be observed here that on presentation of the report, learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi passed order dated 02.05.2019 as under :

“ Perusal of report under Section 173 Cr.P.C. reveals that FIR in question was registered initially under Section 323, 324, 148, 149 IPC. Further reveals that during investigation SP (D) Kapurthala found that offence under Section 323, 324, 326, 148, 149 IPC are not made out. Than the report under Section 173 Cr.P.C. was submitted under Section 160 IPC. Let, the summons to ASI Paramjit Singh, ASI Lakhbir Singh and SI/SHO Sarabjit Singh, who investigated the present case be issued, how the offence under Section 323, 324, 326, 148, 149 IPC were not found to be made out. Notice to SHO, who prepared the report under Section 173 Cr.P.C. be also issued for 05.07.2019.”

It is difficult to understand how report under Section 173 (2) of the Cr.P.C. regarding commission of offence punishable under Section 160 of the IPC could be filed without seeking cancellation of the FIR qua offences punishable under Sections 323, 324, 326, 148 and 149 of the IPC which could be cancelled only after notice to the complainant. For this reason, report under Section 173 (2) of the Cr.P.C. filed regarding offence punishable under Section 160 of the IPC was not accepted/agreed to by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi and considering the same to be without any basis, proceedings were initiated regarding the same.

In the meanwhile, while the matter was so pending, the parties have resolved their entire dispute among themselves and present petition was filed. A perusal of the report of learned Sub Divisional

Judicial Magistrate, Sultanpur Lodhi clearly 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.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondent No.2 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*.

The offences involved in the FIR are overwhelmingly and predominantly of private character. The compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and will 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 and 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.3 dated 02.01.2018 registered under Sections 323, 324, 148 and 149 of the IPC at Police Station Sultanpur Lodhi, District Kapurthala (**Annexure P-1**), to which Section 326 of the IPC was added lateron but subsequently all the above said Sections were deleted and Section 160 of the IPC was added and report under Section 173 (2) of the Cr.P.C. was filed regarding offence punishable under Section 160 of the IPC in breach of the prescribed procedure and relevant provisions of law, is quashed along with all

consequential proceedings arising therefrom qua all the accused named in the FIR and the charge-sheet subsequently filed.

The petition is allowed accordingly.

20.01.2020

Vinay/kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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