

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

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CRM-M-46426-2019

Date of Decision : 24.01.2020

Avtar Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Arun Kaundal, D.A.G., Punjab
for respondent No. 1

Mr. Abhimanyu Vinayak, Advocate
for respondent No. 2

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner-Avtar 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.41 dated 27.06.2019 registered under Sections 323, 379, 341, 506, 427 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25/27 of the Arms Act, 1959 at Police Station City Balachaur, District S.B.S. Nagar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise (**Annexure P-2**) with complainant-Ashok Kumar.

The above said FIR was registered on statement of respondent No.2- Ashok Kumar. In his statement, Ashok Kumar alleged that on 27.06.2019 when he was going to Dana Mandi Khanna and on the way stopped at Chaudhary Sweets Shop, petitioner-accused Avtar Singh came in his car and damaged the

car of respondent No.2-complainant with *dattar* and also ran after respondent No.2-complainant and by taking out his revolver also threatened to kill respondent No. 2-complainant. The petitioner-accused also carried away important documents envelope and amount of Rs. Two Lakh from the car of respondent No. 2-complainant. Respondent No. 2-complainant believed that five persons were sitting in one car parked there. The petitioner accused had also attacked him earlier and he and his partner had threat to his life from him.

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.

This Court while issuing notice of motion on 31.10.2019, passed the following order:-

“ Learned counsel for the petitioner while referring to Annexure P-2 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.41 dated 27.06.2019 under Sections 323, 379, 341, 506 and 427 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959 registered at Police Station City Balachaur, District S.B.S. Nagar and all other proceedings consequent thereto on the basis of compromise dated 13.10.2019.

Notice of motion for 29.11.2019.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of respondent No.1-State.

At this stage, Abhimanyu Vinayak, Advocate has appeared on behalf of respondent No.2-Ashok Kumar and admits the factum of compromise.

Copies of the paperbook supplied to the counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 08.11.2019 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing containing the following information :-

- 1.Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3.Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any*

other case or not.

5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.

Trial Court/Illaq Magistrate is directed to send the report in time and also to send copy of the report to the Registrar (Judicial) of this Court so as to reach this Court before the date of hearing fixed.”

In terms of aforesaid order, learned Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar has recorded the statements of both the parties and submitted report dated 26.11.2019. The relevant part of the same reads as under:-

“ In pursuance of the directions, complainant Ashok Kumar alongwith accused Avtar Singh have come present and suffered their statements voluntarily, without any pressure regarding compromise effected between them with regard to the FIR No.41 dated 27.06.2019 under Sections 323, 379, 341, 506, 427 IPC and under Section 25, 27 of Arms Act, Police Station, Balachaur, District Shaheed Bhagat Singh Nagar.

Separate statement of Investigating Officer ASI Balwinder Singh has been recorded and as per his statement no other case against the accused is pending nor he has been declared as proclaimed offender in the present case.

The parties suffered their statements voluntarily without any threat, coercion or undue influence before court as they have compromised their dispute with the intervention of respectable of locality and family members.”

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

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) R.C.R. (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.**

A perusal of the report of learned Additional Chief Judicial Magistrate, S.B.S. Nagar 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 the

present case are overwhelmingly and predominantly of private/personal character. The parties have resolved their entire dispute among themselves. In view of the facts and circumstances of the case the possibility of conviction of the petitioners is very 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.41 dated 27.06.2019 registered under Sections 323, 379, 341, 506, 427 of the IPC and Section 25/27 of the Arms Act, 1959 at Police Station City Balachaur, District S.B.S. Nagar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

24.01.2020

Kavneet Singh

(ARUN KUMAR TYAGI)
JUDGE

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