

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

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CRM-M-47811-2019
Date of decision: 27.01.2020

Balwant Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Brahminder Singh Toor, Advocate
for the petitioner.

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

Mr. Jagmeet Singh Moudgill, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-**Balwant Singh** has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.259 dated 13.12.2018 registered under Section 420 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Jamalpur, District Ludhiana (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 21.09.2019 (**Annexure P-2**) effected with respondent No.2-**Vicky Singh**.

The above said FIR was registered on the complaint submitted by respondent No.2-complainant-Vicky Singh to Commissioner of Police, Ludhiana. In the complaint, Vicky Singh alleged that accused Balwant Singh, who is a property dealer, showed him plots No.58 to 65 in Shiv Colony, Village Khasi Kalan, District Ludhiana claiming the colony to be approved and plots to be free from

dispute or loan on which he got agreement to sell executed for purchase of three plots in his favour by paying earnest money of Rs.6,85,000/-. Accused permitted him to enter into further agreement to sell and he executed agreement to sell in respect of plot No.58 in favour of Smt. Archana Kumari but subsequently accused Balwant Singh changed the lay out plan and plot No.58 was not there on the spot. Accused Balwant Singh executed fresh agreement to sell dated 06.03.2018 agreeing to sell plots No.9 to 17 for Rs.28 lakhs and adjusted the amount of Rs.6,85,000/- against the same but on inquiry he came to know that colony was not approved by PUDA, accused Balwant Singh was not the owner, there was loan on the land and there was stay from the Court.

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 and they have resolved their differences.

This Court, on 18.11.2019, 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.259 dated 13.12.2018 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Jamalpur, District Ludhiana and all subsequent proceedings arising therefrom.

Adjourned to 13.12.2019.

At this stage, Mr. Jagmeet Singh Moudgill, Advocate has appeared on behalf of respondent No. 2-complainant and admits the factum of compromise.

Copy of the paper book has been supplied to the learned Counsel for the respondent.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 25.11.2019 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. 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.

Trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed."

In compliance with the above said order, learned Judicial Magistrate 1st Class, Ludhiana has recorded the statements of both the parties and submitted report dated 26.11.2019. The relevant part of the same reads as under:-

"Complainant Vicky Singh S/o Suraj Singh suffered a statement to the effect that the compromise has been effected between him and the accused. He has given the statements without any pressure and with free will.

Similarly the statement of the accused person namely Balwant Singh S/o Davinder Singh was also recorded.

As per the record available with the court of undersigned, there is only one accused in the present case and he is not absconding/Proclaimed offender, in the present case. On the basis of statements given by the accused and the complainant, this Court is of the considered view that compromise between the parties is genuine and is effected voluntarily without any pressure, coercion or undue influence from any quarter. As per statement of the accused, he is not involved in any other criminal case or any other FIR. It is further respectfully submitted that no challan has been presented in this case till date."

A perusal of the aforesaid report 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.

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 present case is overwhelmingly and predominantly of private character arising out of the commercial transaction. The parties have resolved their entire dispute among themselves. The compromise has been arrived at between the parties at the initial stage.

In view of the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak and continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.259 dated 13.12.2018 registered under Section 420 of the IPC at Police Station Jamalpur, District Ludhiana (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

27.01.2020

Vinay/kavneet singh

**(ARUN KUMAR TYAGI)
JUDGE**

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