

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

269

CRM-M-48501-2019

Date of decision: 23.01.2020

Harwinder Singh @ Raju and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Janak Singh Bhinder, Advocate
for the petitioners.

Mr. Arun Kaundal, DAG, Punjab
for respondent No.1.

Mr. Sheetal Vaishnav, Advocate for
Mr. Puneet Sharma, Advocate
for respondents No.2 to 4.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Harwinder Singh @ Raju, Balwinder Singh**
@ Bhola and Teja Singh have filed the present petition under Section
482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.66
dated 25.04.2019 registered under Sections 451, 447, 506 read with
Section 34 of the Indian Penal Code, 1860 (for short "the IPC") at Police
Station Dhanaula, District Barnala (**Annexure P-1**) along with all
consequential proceedings arising therefrom in view of the compromise
(**Annexure P-2**) effected with respondents No.2 to 4-**Avtar Singh,**
Sukhdev Singh and Nahar Singh.

Briefly stated, the above said FIR has been registered on
statement of respondent No.2-Avtar Singh on the allegations that in
2001 they purchased 3 kanals 2 marlas land from Karamjit Singh and

Kuldeep Singh and in 2009 they purchased 3 kanals 2 marlas land from Darbara Singh. Land of Harwinder Singh @ Raju is adjoining to their land and they have common boundary with Harwinder Singh @ Raju. About 5-6 days ago, he (Avtar Singh) and his brother Sukhdev Singh were standing in their land then Harwinder Singh @ Raju and his brother Sukhwinder Singh @ Bhola came and told him that they will not allow them to harvest wheat crop as it was their land. On 24.04.2019 at about 07:00 A.M, his brother Sukhdev Singh and father Nahar Singh had gone to their land to harvest the wheat crop but accused Harwinder Singh @ Raju, Sukhwinder Singh @ Bhola and their father Teja Singh stopped his brother and father from harvesting the wheat crop and threatened to kill them and forced them to flee away from the land with an intention of taking unlawful possession of their land. His father and brother came home, narrated the incident to him and saying that it was better to die consumed the spray lying in their house due to harassment by the above mentioned persons. His father and brother were admitted at Mansa Medicity Hospital for medical treatment where they were undergoing treatment and till that date they had not regained consciousness.

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 15.11.2019, passed the following order:-

“Learned counsel for the petitioners while

referring to Annexure P-2 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.66 dated 25.04.2019 registered under Sections 451, 447, 506 and 34 of the Indian Penal Code, 1860 at Police Station Dhanaula, District Barnala and all subsequent proceedings arising therefrom.

Notice of motion for 11.12.2019.

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, Mr. Puneet Sharma, Advocate has appeared on behalf of respondents No.2 to 4 and filed his power of attorney which is taken on record. Learned Counsel for respondents No.2 to 4 admits the factum of compromise.

Copies of the paper book supplied to the learned Counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 26.11.2019 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 Chief Judicial Magistrate, Barnala has recorded the statements of both the parties and submitted report dated 10.12.2019. The relevant part of the same reads as under:-

“Statement of investigating officer ASI Balkar Singh has

also been recorded who stated that three persons namely Harwinder Singh @ Raju, Balwinder Singh @ Bhola and Teja Singh were arrayed as accused in the FIR and that no accused is proclaimed offender in this case and proclamation proceedings are not pending against anyone in this case. He stated that except complainant Avtar Singh, there is no other complainant or affected aggrieved/party in the present case. He stated that no other criminal case is pending against both accused.

For the statements recorded in the court, it appears that the compromise effected between the complainant & accused is genuine, without any pressure and coercion or undue influence. The statements recorded by the parties are enclosed herewith. ”

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.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondents No.2 to 4 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 present case is overwhelmingly and predominantly of private character. 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 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. Therefore, FIR No.66 dated 25.04.2019 registered under Sections 451, 447, 506 read with Section 34

of the Indian Penal Code, 1860 at Police Station Dhanaula, District Barnala (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

23.01.2020

Vinay/kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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