

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

261

**CRM-M-49311-2019
Date of decision: 17.01.2020**

Amarjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. A.S. Virk, Advocate
for the petitioner.

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

Mr. Amandeep Singh Saini, Advocate for
Mr. Vikram Singh Kang, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-**Amarjit Singh** has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0056 dated 22.08.2019 registered under Sections 406 and 420 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station City Balachaur, District SBS Nagar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 15.11.2019 (**Annexure P-2**) effected with respondent No.2-**Mani Kumar**.

The above said FIR was registered on statement of respondent No.2-Mani Kumar who alleged that he had set up a stall at *Lakar Mandi* Balachaur for purchasing and selling big wood logs. He used to send the wood logs from his stall to the factory of accused Amarjit Singh. He had been sending big wood logs to Amarjit Singh

from the year 2012 to 2014 but Amarjit Singh did not share any book keeping record for the same. Whenever, he asked accused Amarjit Singh for settling the accounts, accused Amarjit Singh avoided meeting with them. Sometimes he used to give Rs.5000/- or Rs.10000/-. At that time payment due for the wood logs was Rs.4,50,000/-. Amarjit Singh told him that his son was settled in America and he could also send him to America in the same amount. Amarjit Singh further asked for Rs.50,000/- which he had given to him along with his passport. Now, total amount of Rs.5,00,000/- was due against Amarjit Singh but Amarjit Singh neither sent him abroad nor returned his money. After many requests, he had taken his passport back from Amarjit Singh. Amarjit Singh had refused to make payment to his father and even abused his father. The persons from whom his father had purchased the wood given to Amarjit Singh were harassing him for not giving money due to which his father remained mentally disturbed and was hospitalized for the same and his condition was critical.

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, while issuing notice of motion on 20.11.2019, 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.0056 dated 22.08.2019 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Balachaur and all subsequent proceedings arising therefrom.

Notice of motion for 16.12.2019.

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. Vikram Singh Kang, Advocate has appeared and filed his power of attorney on behalf of respondent No.2 and admits the factum of compromise.

Copies of the paper book have been supplied to the learned counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 22.11.2019 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 Sub Divisional Judicial Magistrate, Balachaur has recorded the statements of both the parties and submitted report dated 22.11.2019. The relevant part of the same reads as under:-

"In pursuance of the directions, complainant Mani Kumar alongwith accused Amarjit Singh have come present and suffered their statements voluntarily, without any pressure regarding compromise effected between them with regard to the FIR No.0056 dated 22.08.2019 under section 406, 420 IPC, Police Station, City Balachaur, District Shaheed Bhagat Singh Nagar subsequently registered on the statement of complainant Mani Kumar son of Ram Sarup resident of village Adoana, District SBS Nagar which was recorded accordingly.

Separate statement of Investigating officer lady ASI Jaswinder Kaur has been recorded and as per his statement no other case against the accused is pending nor he has been declared as proclaimed 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. My point-wise report is as under:-

- 1. There is only one accused is involved in the present case.*
- 2. Accused is not proclaimed offender in the present case.*
- 3. The compromise effected between the parties is genuine, voluntarily and without any coercion or undue influence.*
- 4. Accused Amarjit Singh is not involved in any other case except the present case.*
- 5. As per the statement of Investigating Officer, ASI Jaswinder Kaur, there is only one victim/complainant and only one accused in the present 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.***

A perusal of the report of Sub Divisional Judicial Magistrate, Balachaur 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

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 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.

In view of the above discussion, FIR No.0056 dated 22.08.2019 registered under Sections 406 and 420 of the IPC at Police Station City Balachaur, District SBS Nagar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

17.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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