

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

281

CRM-M-49707-2019

Date of decision: 20.02.2020

Mohinder Partap DhingraPetitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Amandip Kaur, Advocate
for the petitioner.

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

Ms. Harpreet Kaur, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-**Mohinder Partap Dhingra** has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.30 dated 25.04.2018 registered under Section 306 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Fazilka, District Fazilka (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the affidavit dated 18.07.2019 (**Annexure P-2**) sworn by Rani, widow, respondent No.2-**Bharat Kumar** and Mohinder Kumar sons and Pinki Rani daughter of the deceased.

The above said FIR was registered on statement of Bharat Kumar, who alleged that his father Bhagwan Dass was carrying on a tailoring shop on Salem Shah Road Fazilka as tenant under the ownership of Mohinder Partap Dhingra. On 25.04.2018, his father came to the shop at about 09:00 A.M. Chandu who is working as tailor with his father was also doing his work. At about 12:45 P.M. Chandu

went for meal to his house and his father was alone at the shop. His father committed suicide by hanging himself with the ceiling fan of the shop. One suicide note was also recovered from the pocket of his father in which he mentioned the harassment caused by Mohinder Partap Dhingra to be the cause of his suicide.

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.

Vide order dated 12.12.2019, this Court directed the private parties to appear before the trial Court/Illaq Magistrate on 19.12.2019 or any other date convenient to the Court for recording their statements with regard to compromise/settlement and directed the Trial Court/Illaq Magistrate to submit a report before the next date of hearing i.e. on 16.01.2020 regarding the genuineness and voluntary nature of the compromise.

In compliance with the above said order, learned Chief Judicial Magistrate, Fazilka has recorded the statements of both the parties and submitted report dated 10.01.2020. The relevant part of the same reads as under:-

".....both the parties to the petition appeared before this court on 03.01.2020 for recording their statements with regard to compromise effected between them.

Complainant Bharat Kumar son of Bhagwan Dass resident of Mohalla Jattian, Street Rewari, Fazilka, Tehsil and District Fazilka stated that FIR was registered on his statement against Mohinder Partap Dhingra son of Munshi Ram, resident of Kamra Street, Fazilka Tehsil and District Fazilka. Now with the intervention of respectable persons of the society he has compromised with the accused persons and now he has compromised with the

accused persons and now he has no grudge against the accused person. This compromise has been effected by him in writing voluntarily, without any threat or undue influence. He has no objection if the Hon'ble High Court quash the FIR against the accused Mohinder Partap Dhingra as per compromise.

On the other side accused/petitioner namely Mohinder Partap Dhingra son of Munshi Ram, resident of Kamra Street, Fazilka Tehsil and District Fazilka state that FIR was registered against him on the statement of Bharat Kumar son of Bhagwan Dass, resident of Mohalla Jattian, Street Rewari, Fazilka, Tehsil and District Fazilka. Now with the intervention of respectable persons of the society he has compromised with complainant. This compromise has been effected voluntarily, without any threat or undue influence. Statement of Investigating Officer SI Krishan Lal No.547/FZK has also been recorded and he stated that Bharat Kumar son of Bhagwan Dass, resident of Mohalla Jattian, Street Rewari, Fazilka, Tehsil and District Fazilka is complainant/victim in the present FIR. However he also recorded statement of Mohinder Singh son of deceased Bhagwan Dass Under Section 161 of Cr.P.C. being son of deceased Bhagwan Dass who is also victim in the present case.

After recording the statement of complainant and accused/petitioners and orally inquired from them, the pointwise report is submitted as under:-

1. As per record only one person was arrayed as accused, the details of which is as under:-

i) Mohinder Partap Dhingra son of Munshi Ram, resident of Kamra Street, Fazilka Tehsil and District Fazilka.

2. As per record the accused has not been declared Proclaimed Offender.

3. As per the statement of parties the compromise is genuine, voluntary and without any coercion or undue influence.

4. As per report of SHO accused is not involved in any other case.

5. As per report of SHO, the case is under investigation."

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.***

In ***Sucha Singh and others Vs. State of Punjab and another : 2011 (7) RCR (Criminal) 2456*** FIR under Section 306 of the

IPC was quashed by this Court on the basis of compromise.

A perusal of the report of learned Chief Judicial Magistrate, Fazilka 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/personal 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. 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.30 dated 25.04.2018 registered under Section 306 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Fazilka, District Fazilka (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

20.02.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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