

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

249

CRM-M-50400-2019

Date of Decision : 08.01.2020

Jaswinder Kaur and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Parv Aggarwal, Advocate
for Mr. Ravi Malhotra, Advocate
for the petitioners.

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

Ms. Gagandeep Kaur Sidhu, Advocate
for respondents No. 2 to 4

ARUN KUMAR TYAGI, J. (ORAL)

The petitioners-Jaswinder Kaur, Balwinder Kaur, Vinod Kumar @ Modu, Harpreet Singh @ Popi, Gagandeep Singh @ Ricku, Surinder Singh @ Shinda and Gurwinder Singh @ Lala have 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.63 dated 28.04.2014 registered under Sections 452, 324, 323, 506, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Adampur, District Jalandhar City to which Section 326 IPC was added later on (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 17.10.2019 (**Annexure P-2**) with respondents No. 2 to 4 **Jatinder Bangar, Narinder Kumar and Manisha.**

The above said FIR was registered on statement of respondent No.2-Jatinder Bangar who stated that he runs a grocery shop at home. On 27.04.2014 he, his sister Manisha and cousin Narinder Kumar were standing in the street outside his house. Accused-Gagandeep Singh @ Ricku, Raju, Vinod Kumar @ Modu, Lala, Popi, Shinda (father of Popi), Balwinder Kaur (mother of Popi) and Jawinder Kaur (mother of Ricku) came there in Maruti Car. He, his sister Manisha and his cousin Narinder Kumar were hit by the car. They came back to their house. All the above said persons chased them and took him out in the street and injuries were caused to him by accused Ricku and Popy with Kirpan, accused Lala with *datar* and accused Shinda with baseball bat. When his cousin Narinder Kumar tried to save him accused Popi inflicted blow with kirpan on his left arm. The accused also caused injuries to his sister Manisha. When they raised alarm all the assailants ran away from the spot with their respective weapons while threatening to kill them.

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.

This Court while issuing notice of motion on 27.11.2019, 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. 63 dated 28.04.2014 registered under Sections 452, 324, 323, 506, 148 and 149 of the Indian Penal Code, 1860 (for short ' the IPC') at Police Station Adampur, District Jalandhar City to which Section 326 of the IPC has been added lateron and all subsequent proceedings arising therefrom.

Notice of motion for 08.01.2020.

On the asking of the Court, Mr. Arun Kaundal, DAG, Punjab accepts notice on behalf of respondent No.1-State.

At this stage, Ms. Gagandeep Kaur Sidhu, Advocate has appeared and filed his memo of appearance on behalf of respondents No. 2 to 4, which is taken on record. He undertakes to file Power of Attorney on the next date of hearing and has admitted 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 02.12.2019 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 terms of aforesaid order, learned Judicial Magistrate 1st Class,

Jalandhar has recorded the statements of both the parties and submitted report dated 04.01.2020. The relevant part of the same reads as under:-

“..... So, on 13.12.2019 the statements of Jitender Bangar (complainant) and Jaswinder Kaur (accused), Balwinder Kaur (accused), Vinod Kumar (accused), Gagandeep Singh (accused), Harpreet Singh (accused), Surinder Singh Shinda (accused), Gurwinder Singh Lala (accused), Narinder Kumar (injured) were recorded. Statement of Manisha (injured) was recorded on dated 03.01.2020. Statement of INSP Sulakhan Singh no. 1947 IO of the present case now posted as SHO at Rama Mandi recorded today i.e. On 04.01.2020.

As per the statements of the parties, the present FIR was registered by complainant Jatinder Banger against accused Jaswinder Kaur wife of Bawa Singh, Balwinder Kaur wife of Surinder Singh, Vinod Kumar @ Modu s/o Swaran Lal, Rajwinder Singh @ Raju (since deceased) s/o Avtar Singh, Gagandeep Singh @ Rinku s/o Bawa Singh, Harpreet Singh @ Poppy s/o Surinder

Singh, Surinder Singh Shinda s/o Shiv Singh and Gurwinder Singh Lala s/o Mohinder Singh. As per the statement of parties, there are only 8 accused in the present FIR out of which accused Rajwinder Singh @ Raju was deceased one and no one accused has been declared as proclaimed offender. Complainant have compromised the matter with all the above said accused in case FIR No. 63 dated 28.04.2014 under section 452, 326, 324, 325, 506, 148, 149 registered at Police Station Adampur, District Jalandhar without any threat, inducement and coercion and without any pressure and with the free will of the parties. The compromise between complainant and the accused is genuine one. As per the statement of the parties, none of the accused are involved in any other case. The current stage of the present case is Prosecution evidence. The copies of Adhar Cards of parties are Mark A to Mark I and Mark X respectively as the proof of their identities.

As per the statement of INSP Sulakhan Singh no. 1947 posted as SHO at PS Rama Mandi, he is the Investigating Officer in the present case. FIR No. 63 dated 28.04.2014 under sections 452, 326, 324, 323, 506, 148, 149 registered at Police Station Adampur, District Jalandhar. There are only three injured/complainant persons in the present FIR namely, Jatinder Banger son of Ashok Kumar, Narinder Kumar Son of Hari Pal, Manisha wife of Kulwinder Kumar resident of Bolina Doaba, District Jalandhar.

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 **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 Judicial Magistrate 1st Class, Jalandhar 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 compromise effected between the parties in this case. The offences involved in the present case are overwhelmingly and predominantly of private/personal character. The parties have resolved their entire dispute among themselves. The case is at the stage of prosecution evidence. 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, quashing of FIR No.63 dated 28.04.2014 registered under Sections 452, 324, 323, 506, 148 and 149 of the IPC at Police Station Adampur, District Jalandhar City to which Section 326 IPC was added later on (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

08.01.2020

Kavneet Singh

(ARUN KUMAR TYAGI)
JUDGE

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