

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

274

CRM-M-50388-2019

Date of decision : 03.03.2020

Dharam Pal Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Samliel Gill, Advocate for
Mr. G.S. Verma, Advocate
for the petitioners.

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

Ms. Manju Sharma, Advocate
for respondents No.2 to 4.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-Dharam Pal Singh, Roopa, Akashdeep
Singh, Gurjap Singh @ Ranjodh Singh @ Jodha, Didar Singh @
Dara, Kuldeep Singh @ Dhaula Singh and Taranjit Singh have filed
the present petition under Section 482 of the Code of Criminal
Procedure, 1973 for quashing of FIR No.109 dated 31.12.2018 registered
under Sections 148, 149, 323 and 451 of the Indian Penal Code, 1860 (for
short "the IPC") at Police Station Khamano, District Fatehgarh Sahib
(Annexure P-1) along with all consequential proceedings arising
therefrom in view of the compromise dated 11.10.2019 (Annexure P-2)
effected with respondents No.2 to 4-Shinder Kaur @ Chhinder Kaur,
Kuldeep Kaur and Harmesh Singh.

The above said FIR was registered on statement of respondent No.2-Chhinder Kaur who alleged that on 30.12.2018 Panchayat Election was to be held in which she was one of the candidate for the post of Sarpanch. After declaring of result of the said election, she came to her house. At about 11:15 P.M. Ranjodh Singh @ Jodha, Dharampal Singh and Akashdeep Singh came to her house and started abusing by using caste based languages. They also started pushing her and gave fist blows to her. When her daughter-in-law Kuldeep Kaur came to rescue her from them, they also abused her, pushed her and gave first blows to her by saying that they had not cast their votes to them. During this period many other persons of the locality came there and then Roopa, Dara, Tarnjeet Singh and Dhaula, armed with dang and kirpans also came there. They threw turban of her son-Harmesh Singh. Then somebody called the police and after seeing the police party, the accused persons fled from the spot by leaving their vehicle. The motive for the occurrence was that earlier Gurdeep Singh consumed liquor in the house of Dharampal Singh and then in connivance with each other they came to her house and attacked them. They had taken revenge for not casting votes to them. During the quarrel her clothes were also torn.

The petitioners have filed the present petition for quashing of the FIR on the grounds that with the intervention of the respectables and Panchayat the parties have settled the matter and decided to put an end to litigation between them.

On notice learned Counsel for respondent No.2 appeared and admitted the factum of compromise.

Vide order dated 27.11.2019, this Court directed the private parties to appear before the trial Court/Illaq Magistrate on 08.01.2020 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 regarding the genuineness and voluntary nature of the compromise in time so as to reach this Court before the date of hearing fixed i.e. on 02.12.2019.

In compliance with the above said order, learned Sub Divisional Judicial Magistrate, Khamanon has recorded the statements of both the parties and submitted report dated 07.01.2020. The relevant part of the same reads as under:-

“In reference to the abovesaid order passed by the Hon'ble High Court, accused namely Dharam Pal Singh, Roopa, Akashdeep Singh, Gurjap Singh @ Ranjodh Singh @ Jodha, Didar Singh @ Dara, Kuldeep Singh @ Dhaula Singh and Taranjit Singh have appeared before this court & their joint statement was recorded. They have stated that the matter involved in FIR No.109 dated 31.12.2018, Under Section 451, 323, 148, 149 IPC was registered at Police Station, Khamanon and has been amicably compromised between them and complainant Rajvir Kaur. The compromise is without any fear, influence, coercion and the same is out of their free will and wish and without any pressure. As per compromise, the FIR No.109 dated 31.12.2018, Under Section 451, 323, 148, 149 IPC was registered at Police Station, Khamanon may kindly be quashed against them.

Similarly, complainant Shinder Kaur along with victims Kuldeep Kaur and Harmesh Singh appeared before this court and their joint statement was recorded. They have stated that the matter involved in FIR No.109

dated 31.12.2018, Under Section 451, 323, 148, 149 IPC was registered at Police Station, Khamanon has been amicably compromised between themselves and accused persons Dharam Pal Singh, Roopa, Akashdeep Singh, Gurjap Singh @ Ranjodh Singh @ Jodha, Didar Singh @ Dara, Kuldeep Singh @ Dhaula Singh and Taranjit Singh. The compromise is without any fear, influence, coercion and the same is out of their free will and wish and without any pressure. They had no objection if the quashing proceedings filed by the petitioners Dharam Pal Singh son of Chanan Singh, Roopa wife of Dharam Pal Singh, Akashdeep Singh son of Dharam Pal Singh, Gurjap Singh @ Ranjodh Singh @ Jodha son of Jarnail Singh, Didar Singh @ Dara son of Bakhshish Singh, Kuldeep Singh @ Dhaula Singh son of Bakhshish Singh and Taranjit Singh son of Didar Singh, all residents of village Bhambri chari, Tehsil Khamanon, District Fatehgarh Sahib are allowed and aforesaid FIR and its subsequent proceedings are quashed, on the basis of compromise.

The true copies of the statements so recorded are also enclosed herewith for Your Honour's kind perusal.

Sir, the report of SHO of PS, Khamanon has also been called, stating there in that the FIR No.109 dated 31.12.2018, Under Section 451, 323, 148, 149 IPC, PS Khamanon lodged by complainant Shinder Kaur wife of Mohan Singh, R/o Bhambri, against accused Ranjodh Singh son of Jarnail Singh, Dharam Pal Singh son of Chanan Singh, Akashdeep Singh son of Dharampal Singh, Roopa wife of Dharam Pal Singh, Didar Singh @ Dara son of Bakhsish Singh, Kuldeep Singh @ Ghola son of Bakhsish Singh. In the above case, no accused was declared proclaimed offender. Copy of report of SHO of PS Khamanon, is also enclosed herewith for your honour's kind perusal. The IO also reported that no other criminal

case is pending against the accused at Fatehgarh Sahib.

Sir after going through their statements recorded by the accused persons, complainant Shinder Kaur and victims Kuldeep Kaur and Harmesh Singh, as per the record, there are 7 accused namely Dharam Pal Singh, Roopa, Akashdeep Singh, Gurjap Singh @ Ranjodh Singh @ Jodha, Didar Singh @ Dara, Kuldeep Singh @ Dhaula Singh and Taranjit Singh in this case and they have never been declared Proclaimed Offenders at any stage of investigation and at present, the case is pending investigation with the police. No other case is pending against the accused persons as per the report of IO. After going through the statements of the complainant, victims and accused persons, I am satisfied that compromise in between these parties and which is voluntary without any pressure or undue influence and out of their own free will.”

No reply to the petition has been filed by the respondent No.1-State.

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) RCR (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 Sub Divisional Judicial Magistrate, Khamanon 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 offences involved in the present case are overwhelmingly and predominantly of private character and do not have any social impact. The parties have resolved their entire dispute. The compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society. In view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak. 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.109 dated 31.12.2018 registered under Sections 148, 149, 323 and 451 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Khamano, District Fatehgarh Sahib (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

03.03.2020

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(ARUN KUMAR TYAGI)
JUDGE

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