

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

253

CRM-M-51608-2019

Date of Decision : 09.01.2020

Rajesh Kumar and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Reena, Advocate for
Mr. Balbir Singh Jaswal, Advocate
for the petitioners.

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

Mr. Vikki Sharma, Advocate for
Ms. Seema Rani, Advocate
for respondent No. 2

ARUN KUMAR TYAGI, J. (ORAL)

The petitioners-**Rajesh Kumar and Raman Kumar** 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.86 dated 03.06.2016 registered under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar, District Amritsar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 25.11.2019 (**Annexure P-2**) with complainant-Rajesh Aggarwal.

The above said FIR was registered on statement of respondent No.2- Rajesh Aggarwal. In his statement, Rajesh Aggarwal alleged that he had agreed to purchase one plot from Sohan Singh and Ashok Kumar through Chander Mohan and Raman Kumar through GPA document no. 12503 attested on 15.02.2007 by Sub Registrar, Amritsar and through Rajesh Kumar Special power of attorney, SPA document no. 885 attested on 22.04.2008 by Sub Registrar, Jalandhar under agreement to sell for Rs. 3,50,000/- which fixed 20.01.2009 as the date for execution and registration of sale deed. He paid amount of Rs. 3,50,000/- to them. The aforesaid persons did not execute the sale deed on the stipulated date. He got his presence marked in the office of concerned Sub Registrar. He also gave a complaint in the police station. An agreement was arrived whereby the aforesaid persons agreed to pay a sum of Rs. 2,00,000/- to him by 25.01.2009 but they did pay any amount to him. On enquiry, he came to know that the plot in question had already been sold to some other person. Whenever, he demanded his money the aforesaid persons threatened to kill him and refused to pay the amount.

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 04.12.2019, 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.86 dated 03.06.2016 registered under Sections 420, 467, 468, 471 and 120-B of the the Indian Penal Code, 1860 at Police Station Sadar,

District Amritsar and all subsequent proceedings arising therefrom.

Notice of motion for 09.01.2020.

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, Ms. Seema Rani, Advocate has appeared and filed power of attorney which is taken on record. Learned Counsel for respondent No.2 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 10.12.2019 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 Additional Chief Judicial

Magistrate, Amritsar has recorded the statements of both the parties and

submitted report dated 07.01.2020. The relevant part of the same reads as under:-

“ Pursuant to the order dated 04.12.2019 passed by the Hon'ble High Court in CRM-M-51608 of 2019, it is submitted that complainant Rajesh Aggarwal and accused persons namely Rajesh Kumar and Raman Kumar appeared in Court for getting their statements recorded in case bearing FIR No. 86 dated 03.06.2016 under Sections 420, 467, 468, 471, 120-B IPC registered at Police Station Sadar, Amritsar. This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any pressure, undue influence or coercion and the compromise is genuine, voluntarily and without any coercion or undue influence. ”

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 **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 Additional Chief Judicial Magistrate, Amritsar 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/commercial character. The parties have resolved their entire dispute among themselves. The case is at initial/investigation stage as the report under Section 173(2) of the Cr.P.C. has not yet been presented in the Court. 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, FIR No.86 dated 03.06.2016 registered under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal

Code, 1860 (for short 'the IPC') at Police Station Sadar, District Amritsar
(**Annexure P-1**) is quashed along with all consequential proceedings arising
therefrom.

The petition is allowed accordingly.

09.01.2020

Kavneet Singh

(ARUN KUMAR TYAGI)
JUDGE

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