

270

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

**CRM-M No.54019 of 2019(O&M)
Date of Decision: 06.02.2020**

Kailash Rani and another

.....Petitioners

Vs

State of Haryana and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. S.P. Arora, Advocate
for the petitioners.

Mr. Surender Singh, AAG, Haryana.

Ms. Neha Sharma, Advocate
for respondent No.2/complainant.

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.148 dated 28.08.2016 registered under Sections 173, 353, 506, 189 IPC at Police Station Division-4, Ludhiana as well as all the subsequent proceedings arising therefrom on the basis of compromise.

[2]. The occurrence took place when respondent No.2 Process Server went to serve the defendant for the date fixed i.e. 24.08.2016. When he visited the house of the defendant for

getting the service of summons effected, the mother of the defendant and sister of Gaurav Dang disclosed that the defendant was not present. They became furious and gave abuses to the Process Server. They also used derogatory language and also gave threats and misbehaved with him.

[3]. In the aforesaid context, Civil Judge (Junior Division)-cum-Judicial Magistrate First Class, Ludhiana, wrote a letter dated 24.08.2016 to the SHO to initiate legal proceedings against the accused persons. Resultantly, FIR No.148 dated 28.08.2016 under Sections 173, 353, 506, 189 IPC, Police Station Division-4, Ludhiana came to be registered.

[4]. Offence in terms of Section 173 IPC is in relation to prevent service of summons or other proceedings or prevent publication thereof. Offence is classified as non-cognizable. Offence in terms of Section 353 IPC is cognizable and relates to assault or using criminal force to deter public servant from discharge of his duty. The aforesaid offence is an aggravated form of Section 186 IPC, which is in the context of obstructing the public servant in discharge of his public functions and offence is classified as non-cognizable. Similarly, Offences under Sections 506 and 189 IPC are also non-cognizable in nature. Only cognizable offence in the present FIR is Section 353 IPC

[5]. This Court in **Ram Kumar Vs. State of Haryana, 1998(1) PLR 633** and **Nirbhai Singh Vs. State of Punjab and another, 2009(4) RCR (Criminal) 614** has held that in such type of scenario, offences under Sections 353 and 332 IPC are necessarily to be treated alike along with other non-cognizable offences when the incident has taken place in relation to obstructing a public servant in discharge of his public duty. This Court has quashed the FIR in the aforesaid cases.

[6]. Even otherwise, now the parties have entered into an amicable resolution of dispute. Respondent No.2 along with his counsel is present in Court. On being asked, he very candidly stated that he has no personal enmity with the petitioners and he has no objection in case, the FIR in question is quashed on the basis of compromise or on merits.

[7]. This Court is of the opinion that in view of compromise between the parties, chances of conviction of the accused are remote and there is minimal chance of the witnesses coming forward to depose in support of prosecution version. In view of remote chances of conviction, it would be appropriate to exercise discretionary power of this Court under Section 482 Cr.P.C. to put an end to the controversy for all times to come. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is

personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when possibility of conviction is remote and bleak, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial.

[8]. Learned State counsel, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise. The compromise in question is fully in consonance with the guidelines framed in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052** and **Gian Singh vs. State of Punjab and another, 2012 (4) RCR (Crl.) 543.**

[9]. Resultantly, FIR No.148 dated 28.08.2016 registered under Sections 173, 353, 506, 189 IPC at Police Station Division-4, Ludhiana as well as all the subsequent proceedings

arising therefrom, are hereby quashed.

[10]. Petition stands disposed of.

06.02.2020	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No