

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

265

**CRM-M-53309-2019
Date of decision: 17.01.2020**

Nazar Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. T.P.S. Makkar, Advocate
for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab
for respondent No.1.

Mr. Ramandeep Singh Khinda, Advocate for
Mr. Amandeep Singh Chahal, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-Nazar Singh, Budh Singh, Gurjit Singh @
Billa, Balwinder Singh @ Bindra and Guriqbal Singh have filed the
present petition under Section 482 of the Code of Criminal Procedure,
1973 for quashing of FIR No.79 dated 07.05.2017 registered under
Sections 323, 341, 509, 148 and 149 of the Indian Penal Code, 1860 (for
short "the IPC") at Police Station Jamalpur, District Ludhiana (**Annexure
P-1**) along with all consequential proceedings arising therefrom in view
of the compromise dated 06.04.2019 (**Annexure P-3**) effected with
respondents No.2 to 6-Nazma Khatun, Farida Bano @ Farida,
M.D.Shoaib Raza @ Sayed, Nand Lal and Vinod Kumar.

The above said FIR was registered on statement of
respondent No.2-Nazma Khatun who alleged that a dispute was going
on regarding passage of her Mohalla Sidhu Colony between Nazar

Singh, his son Billa, his brother Budh Ram and Budh Ram's son Balwinder Singh of Village Bhamia Kalan and others regarding which the residents of mohalla had also filed case for passage in the Court. On 07,05,2017 at 07:30 PM, the above named persons along with 5-6 unidentified persons had unloaded earth by trolley at the place of passage. She along with her daughter Farida and her son Sayeb along with residents of their mohalla Nand Lal and his son Vinod Kumar went to enquire. The above named persons became bent upon to give beatings to them and Nazar Singh raised *lakara* to catch hold of them and not to allow them to go. Thereafter, Nazar Singh gave *danda* blow on the back side of her head. She fell down. Then the other persons gave blows with *dandas*. Budh Ram, his son Balwinder Singh, Billa and other unknown persons in connivance with each other gave beatings to them and inflicted injuries to them. On hearing the noise, the other persons of the mohalla also gathered and all the above named persons ran away from the spot with *dandas*.

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 and they have resolved their differences.

This Court, while issuing notice of motion on 13.12.2019, passed the following order:-

"Learned counsel for the petitioners while referring to Annexure P-3 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.79 dated 07.05.2017 registered under Sections 323, 341, 509, 148 and 149 of the Indian Penal Code, 1860 at Police Station Jamalpur, District Ludhiana and all subsequent proceedings arising therefrom.

Notice of motion.

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

At this stage, Mr. Amandeep Singh Chahal, Advocate has appeared and filed his power of attorney on behalf of respondents No.2 to 6 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 20.12.2019 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 i.e. 17.01.2020 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 compliance of the above said order, learned Judicial Magistrate 1st Class, Ludhiana has recorded the statements of both the parties and submitted report dated 21.12.2019. The relevant part of the same reads as under:-

"Complainant Nazma Khatun and injured persons namely Farida Bano @ Farida, M.D. Shoaib @ Sayab, Nand Lal and Vinod Kumar suffered the statements to the effect that the compromise has been effected between them and all the accused. They have given the statements without any pressure and with free will.

Similarly the statement of all the accused persons namely 1) Nazar Singh S/o Kaka, 2) Budh Singh S/o Kaka, 3) Gurjit Singh @ Billa S/o Nazar Singh, 4) Balwinder Singh @ Bindra S/o Budh Singh and 5) Guriqbal Singh

S/o Gurnam Singh were also recorded.

As per the record available with the court of undersigned, the number of persons arrayed as accused in the present FIR are five and no accused is absconding/PO in the present case. On the basis of statements given by the complainant and injured persons and all the accused, this Court is of the considered view that compromise between the parties is genuine and is effected voluntarily without any pressure, coercion or undue influence from any quarter.

As per the statements given by all the persons, they are not involved in any other criminal case.

It is further respectfully submitted that the present case is pending for the evidence of the prosecution.”

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.***

A perusal of the report of Judicial Magistrate 1st Class, Ludhiana 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 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 petitioners is 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.

Consequently, FIR No.79 dated 07.05.2017 registered under Sections 323, 341, 509, 148 and 149 of the IPC at Police Station Jamalpur, District Ludhiana (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition is allowed accordingly.

17.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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