

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

272

CRM-M-54393-2019
Date of decision: 29.01.2020

Charanjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No.1.

Mr. Fariad Singh Virk, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-**Charanjit Singh** has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.100 dated 25.05.2010 registered under Section 380 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Adampur, District Jalandhar (**Annexure P-1**) along with all consequential proceedings arising therefrom including order dated 16.09.2015 whereby the petitioner has been declared proclaimed offender, in view of the compromise dated 17.10.2019 (**Annexure P-3**) effected with respondent No.2-**Balbir Singh**.

2. The above said FIR was registered on the statement of respondent No.2/complainant-Balbir Singh who alleged that there is a temple of Baba Balak Nath Ji in the village and he is the caretaker of the same. On 25.05.2010 at about 08:00 A.M., when he went for service in the temple, he saw that *Jot Wala Diwa* (worship lamp) of

Babaji made of brass was missing. Petitioner/accused-Charanjit Singh was standing there and on seeing him, petitioner/accused-Charanjit Singh ran away. He was sure that accused-Charanjit Singh had stolen the *Jot Wala Diwa* from the temple of Baba Balak Nath Ji.

3. The petitioner has 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.

4. This Court, while issuing notice of motion on 19.12.2019, passed the following order:-

"Prayer in the petition filed under Section 482 of the Code of Criminal Procedure, 1973 is for quashing of FIR No.100 dated 25.05.2010 registered under Sections 380 and 379 of the Indian Penal Code, 1860 at Police Station Adampur, District Jalandhar and all subsequent proceedings arising therefrom including order dated 16.09.2015 passed by the Judicial Magistrate Ist Class, Jalandhar whereby the petitioner has been declared 'Proclaimed Offender'.

Learned Counsel for the petitioner has submitted that the Counsel of the petitioner told him that there is no need to appear on each and every date of hearing and whenever the presence of the petitioner is required, he will inform the petitioner. To earn livelihood for his family, the petitioner went to Dubai and the petitioner was not informed by his counsel for making his presence and due to his absence he was declared proclaimed offender on 16.09.2015. Now, with the intervention of respectables, both the parties have entered into a compromise.

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. Fariad Singh Virk, Advocate has appeared and filed power of attorney on behalf of respondent No.2 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.

The petitioner is directed to appear before the Trial Court on 04.01.2020 and on such appearance, he shall be released on interim bail on furnishing of bail bonds by him to the satisfaction of the Trial Court.

The complainant is also directed to appear before the Trial Court/Illaq Magistrate on 04.01.2020. The Trial Court is directed to record statements of the parties on that date or any other date convenient to the Court regarding the compromise. Trial Court/Illaq Magistrate is directed to submit a report on or before 21.01.2020 containing the following information :-

1. Number of persons arrayed as accused in FIR.

2. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

3. Whether the accused persons are involved in any other case or not.

4. Current stage of the case.

The Trial Court/Illaq Magistrate 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. "

5. In compliance with the above said order, learned Judicial Magistrate 1st Class, Jalandhar has recorded the statements of both the parties and submitted report dated 16.01.2020. The relevant part of the same reads as under:-

".....So, on 10.01.2020 the statements of Balvir Singh (complainant), Charanjit Singh (accused) and IO Sub INSP Prithvi Pal Singh no.1494/Jalandhar (retired) were recorded.

As per the statements of the parties, the FIR NO.100 dated 25.05.2010 under Section 380,379 of IPC PS Adampur, Jalandhar was got registered by Complainant Balvir Singh against accused Charanjit Singh @ Charanjit, S/o Hari Krishan @ Pappu, R/o VPO Kotli Than Singh, PS Adamupr Jalandhar. with the intervention of the respectables and the near and dear ones of both sides, the matter has been amicably settled and

compromised between the parties. The copy of compromise is Ex.C1. The said compromise is with the free will of the parties and without any pressure or coercion from any corner. As per the statement of the parties, there is only one accused namely Charanjit Singh @ Charanjit arrayed in the said FIR and no other case was registered or pending against the above said accused. As per the statements of parties, the above said case was closed by the Court and the file was consigned to the record room on dated 13.10.2015. The copy of Adhar Card of complainant and accused is Ex.C2 and Ex.C3 respectively as the proof of their identities.

As per the statement of the IO Sub INSP Prithvi Pal Singh no.1494/JAL(retired) that FIR NO.100 dated 25.05.2010 under Section 380, 379 of IPC PS Adampur, Jalandhar was got registered by Complainant Balvir Singh against accused Charanjit Singh @ Charanjit and there is only one victim/complainant in the present FIR namely Balvir Singh, S/o Jit Singh, R/o VPO Kotli Than Singh, PS Adampur, Jalandhar. He further stated in his statement that there is only one accused namely Charanjit Singh @ Charanjit S/o Hari Krishan, R/o VPO Kotli Than Singh, PS Adampur, Jaladhar is involved in the present FIR. He further stated that as per his knowledge there is no other case was registered against the above said accused."

6. 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.

7. I have heard learned counsel for the petitioner, learned State counsel and learned counsel for respondent No.2 and gone through the record.

8. 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.***

9. A perusal of the report of Judicial Magistrate 1st Class,

Jalandhar shows that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence. The present case is overwhelmingly and predominantly of private character. The parties have resolved their entire dispute among themselves. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society.

10. In view of the facts and circumstances of the case, the possibility of conviction of the petitioner is remote and bleak and continuation of this case will put the petitioner to great oppression and extreme injustice would be caused to the petitioner if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.100 dated 25.05.2010 registered under Section 380 of the IPC at Police Station Adampur, District Jalandhar (**Annexure P-1**) and all consequential proceedings arising therefrom including order dated 16.09.2015 declaring the petitioner as proclaimed offender are quashed subject to deposit of Rs.15,000/- as costs to be deposited within one month from receipt of certified copy of this order with High Court Legal Services Committee.

11. The petition is allowed accordingly.

29.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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