

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

277

1. CRM-M-54337-2019

Date of Decision : 30.01.2020

Gurbir Singh @ Kala and others

....Petitioners

Versus

State of Punjab and others

....Respondents

2. CRM-M-2310-2020

Date of Decision : 30.01.2020

Gulwinder Singh alias Gurwinder Singh alias Bittu and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Prince Sharma, Advocate
for the petitioners in both the cases.

Mr. Arun Kaundal, D.A.G., Punjab
for respondent No. 1-State in both the cases.

Mr. Jaspreet Singh Cheema, Advocate
for respondents No. 2 and 3 in **CRM-M-54337-2019** and
for respondent No. 2 in **CRM-M-2310-2020**

ARUN KUMAR TYAGI, J. (ORAL)

This order disposes of **CRM-M-54337-2019** titled as **Gurbir Singh @ Kala and others versus State of Punjab and others** and **CRM-M-2310-2020** titled as **Gulwinder Singh alias Gurwinder Singh alias Bittu and others versus State of Punjab and another** as the same have arisen out of cross cases and involve common question of facts and law.

CRM-M-54337-2019 has been filed by petitioners-**Gurbir Singh alias Kala, Gurmej Singh, Gurbinder Singh alias Bhagu, Gursahib Singh and Shingara Singh** under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No.25 dated 26.03.2019 registered under Sections 326, 324, 323, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Bhikhhiwind, District Tarn Taran along with all consequential proceedings arising therefrom in view of the compromise dated 19.08.2019 with complainant- **Gulwinder Singh alias Gurwinder Singh alias Bittu and Dilpreet Singh alias Hardeep Singh** while CRM-M-2310-2020 has been filed by petitioners-**Gulwinder Singh alias Gurwinder Singh alias Bittu, Karambir Singh, Dilpreet Singh alias Hardeep Singh, Gurpreet Singh alias Gopi, Charan Singh, Lakhwinder Singh and Karandeep Singh alias Jaskarnpreet Singh** under Section 482 of the Cr.P.C. for quashing of DDR No.27 dated 26.03.2019 registered under Sections 336, 188, 148 and 149 of the Indian Penal Code, 1860 and Sections 27 of the Arms Act, 1959 being investigated as cross case to above-said FIR along with all consequential proceedings arising therefrom in view of the compromise dated 19.08.2019 with complainant-**Gurbir Singh alias Kala.**

FIR No.25 dated 26.03.2019 registered under Sections 326, 324, 323, 148 and 149 of the IPC was registered on the statement of Gulwinder Singh on the allegations that on 25.03.2019 when he, Dilpreet Singh and Karambir Singh, Member Panchayat were standing on the road, Kulwinder Kaur came to them and told that wheat was being distributed at focal point Dana Mandi at village Bainka but the distributors were not giving them their complete share and asked for help from them. They went to Dana Mandi where Gurmej Singh Ex. Sarpanch, his sons Gurbir Singh alias Kala, Gurbinder Singh alias Bhagu, Gursahib Singh and

Shingara Singh and his supporters were standing there. When Karambir Singh, Member Panchayat asked Gurmej Singh Ex. Sarpanch to give full share of wheat to Kulwinder Kaur, Gurmej Singh Ex. Sarpanch, who was distributing wheat in the presence of Tajinder Singh Food Supply Inspector, shouted as to how they could ask him about the wheat and who they are. They (complainant Gulwinder Singh, Dilpreet Singh and Karambir Singh) asked Gurmej Singh not to do any wrong with the poor. Thereafter, Gurmej Singh exhorted to catch them and give them all the details of wheat how they can ask. Karambir Singh Member Panchayat tried to convince but the supporters of Gurmej Singh caught him and took him behind. Gurmej Singh alias Kala, Gurbinder Singh alias Bhagu, Gursahib Singh and Shingara Singh ran towards Figo car parked there. Gurbir Singh and Gurbinder Singh took out *Datar* from car, Gursahib Singh took out *Sauta* and Shingara Singh took out baseball bat from the car. Gurbir Singh alias Kala and Gursahib hit Dilpreet Singh. When he (complainant-Gulwinder Singh) tried to save Dilpreet Singh, then Gurbinder Singh alias Bhagu and Shingara Singh stopped him and Shingara Singh gave baseball bat blow on his back and Gurbinder Singh alias Bhagu gave two datar blows which hit on his left bicep and elbow of left hand. Gurbinder Singh alias Bhagu and Shingara also threw Dilpreet Singh down and pulled him due to which he got scratch on his left knee and also suffered injuries on back and right arm. Kulwinder Kaur saw the whole incident. When they raised alarm, the villagers started gathering there on which the accused persons fled from the spot with their respective weapons.

DDR No.27 dated 26.03.2019 was registered under Sections 336, 188, 148 and 149 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959 on the statement of Gurbir Singh alias Kala on the allegations that on 25.03.2019 they along with Tajinder Singh, Food Inspector were present at the

Depot to distribute wheat to the poor people as per the direction of the Punjab Government. They had issued 10-12 slips for distributing wheat. Then Karambir Singh Member Panchayat, Dilpreet Singh alias Hardeep Singh, Gurpreet Singh alias Gopi, Charan Singh, Gurwinder Singh alias Bittu, Lakhwinder Singh and Karandeep Singh came there and asked Tajinder Singh, Food Inspector to first distribute the wheat to those people who have Adhar Card on which Tajinder Singh, Food Inspector replied that their names were not mentioned in the list so they will not be given wheat. Thereupon they had heated arguments. Thereafter, Tajinder Singh, Food Inspector took his machine and left. After that Karambir Singh, his son Dilpreet Singh alias Hardeep Singh and their supporters arrived with their respective weapons and attacked the complainant party. Dilpreet Singh attacked with his kirpan which hit him (Gurbir Singh alias Kala) on elbow. When they were going to their Figo car, Karambir Singh, Member Panchayat took out his pistol and fired 3-4 shots one of which hit him (Gurbir Singh alias Kala) in the front side of his left leg. Dilpreet Singh broke the driver side window glass of their car by hitting kirpan. They ran away from the place of occurrence in their car to save their lives.

The above named petitioners have filed the above said petitions for quashing of the FIR and DDR 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 19.12.2019 in **CRM-M-54337-2019** and on 21.01.2020 in **CRM-M-2310-2020** directed the parties to appear before the Trial Court/Illaq Magistrate for recording of their statements with regard to compromise and the Trial Court/Illaq Magistrate was directed to send report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties before the next date of hearing i.e. 21.01.2020 and 30.01.2020 respectively.

In terms of aforesaid order, learned Judicial Magistrate 1st Class, Patti has recorded the statements of the parties and submitted report dated 08.01.2020 in **CRM-M-54337-2019**, the relevant part of which reads as under:-

“ From the statement of both the parties it comes to my knowledge that parties have compromised the matter without any pressure or coercion in any manner because they want to live peacefully. Moreover, the complainant & accused stated that they know good/bad of themselves and stated that they have entered into compromise so as to bring home, peace and harmony. Therefore, the compromise made by the parties seems to be genuine and without any influence. My point wise report is as follow :-

- 1. As per statement of ASI Surinder Kumar, Investigating Officer, in the present FIR five persons stayed arrayed as accused.*
- 2. As per statement of ASI Surinder Kumar, Investigating Officer, no accused has been declared proclaimed offender in this case.*
- 3. The compromise made by the parties seems to be genuien, voluntary and without any coercion or undue influence.*
- 4. As per statement of ASI Surinder Kumar, Investigating Officer that no other accused persons are involved in any other case.*
- 5. As per statement of ASI Surinder Kumar, Investigating Officer the present case is pending for investigation and report under Section 173 of Cr.P.C. has not been presented in the Court till date.....”*

In terms of aforesaid order, learned Judicial Magistrate 1st Class, Patti has recorded the statements of the parties and submitted report dated 29.01.2020 in **CRM-M-2310-2020**, the relevant part of which reads as under:-

“ From the statement of both the parties it comes to my knowledge that parties have compromised the matter without any pressure or coercion in any manner because they want to live peacefully. Moreover, the complainant & accused stated that they know good/bad of themselves and stated that they have entered into

compromise so as to bring home, peace and harmony. Therefore, the compromise made by the parties seems to be genuine and without any influence. My point wise report is as follow :-

- As per statement of ASI Sahib Singh, in the present five persons arrayed as accused and Seven persons arrayed as accused in DDR.*
- As per statement of ASI Sahib Singh, no accused has been declared proclaimed in this case.*
- The compromise made by the parties seems to be genuien, voluntary and without any coercion or undue influence.*
- As per statement of ASI Sahib singh, that no other accused persons are involved in any other case.*
- As per statement of ASI Sahib Singh, the present case is pending for investigation and report under Section 173 of Cr.P.C. has not been presented in the Court till date.....”*

Respondent No.1 State of Punjab has not filed any reply to the petitions filed by the petitioners.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondents No.2 and 3 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 dated 08.01.2020 in **CRM-M-54337-2019** and report dated 29.01.2020 in **CRM-M-2310-2020** passed by learned Judicial Magistrate 1st Class, Patti 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 and DDR along with all subsequent proceedings arising therefrom is quashed on the basis of the compromise effected between the parties in both the cases.

The offences involved in the present case are overwhelmingly and predominantly of private/personal character. The parties have resolved their entire dispute among themselves. In view of the facts and circumstances of the case the possibility of conviction of the petitioners is very remote and bleak. Continuation of the cases will put the petitioners to great oppression and extreme injustice would be

caused to the petitioners if the FIR and DDR registered as cross case and all consequential proceedings are not quashed.

In view of the above discussion, **FIR No.25 dated 26.03.2019** registered under Sections 326, 324, 323, 148 and 149 of the IPC at Police Station Bhikhhiwind, District Tarn Taran and **DDR No.27 dated 26.03.2019** registered under Sections 336, 188, 148 and 149 of the IPC and Sections 27 of the Arms Act, 1959 registered as cross case to the above said FIR are quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

30.01.2020

Rajeev/Kavneet Singh

**(ARUN KUMAR TYAGI)
JUDGE**

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