

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

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**CRM-M-54675-2019
Date of decision: 23.01.2020**

Balkar Singh @ Balkara and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sahil, Advocate for
Mr. Ramneek Singh, Advocate
for the petitioners.

Mr. Arun Kaundal, DAG, Punjab
for respondent No.1.

Mr. Khushkaran Kumar, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Balkar Singh @ Balkara, Amarjit Singh, Kamaljeet Singh @ Bikki, Kulwinder Singh @ Sunny and Sandeep Singh @ Rimpi** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.251 dated 23.10.2019 registered under Sections 323, 308, 148 and 149 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Sultanpur Lodhi, District Kapurthala (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 29.10.2019 (**Annexure P-2**) effected with respondent No.2-**Karnail Singh Jammu**.

The above said FIR was registered on the statement of respondent No.2/complainant-Karnail Singh Jammu alleging that on the night of 18.10.2019 around 7:30 P.M., when he was going to house of

S. Sohan Singh after completing his household work, then accused Balkara, Amarjit Singh, Bikki, Sunny and Rimpi armed with sticks were standing there. Accused Balkara exhorted others to teach him a lesson for stopping the drainage water and inflicted blow on his head with intention to kill him. Bikki grappled with him and threw him on the ground. Amarjit inflicted blow on his left hand. Sunny and Rimpi gave him kick blows. Then all the accused caused grievous injuries and gave fist blows and slaps to him. When he raised hue and cry, Sadhu Singh and Paramjeet Singh came to the spot, who saved him and the above said persons fled away with their respective weapons.

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 20.12.2019, 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.251 dated 23.10.2019 registered under Sections 323, 308, 148 and 149 of the Indian Penal Code, 1860 at Police Station Sultanpur Lodhi, District Kapurthala and all subsequent proceedings arising therefrom.

Notice of motion.

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, Mr. Khushkaran Kumar, Advocate has appeared on behalf of respondent No.2 and filed his 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 has been supplied to the learned Counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 04.01.2020 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 on or before 23.01.2020 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 with the above said order, learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi has recorded the statements of both the parties and submitted report dated 08.01.2020. The relevant part of the same reads as under:-

"In pursuance of aforesaid order, both the parties i.e. petitioners/accused namely Balkar Singh @ Balkara son of Sucha Singh @ Suchi, Amarjit Singh son of Parkash Singh, Kamaljeet Singh @ Bikki son of Joga Singh, Kulwinder Singh @ Sunny son of Joga Singh and Sandeep Singh @ Rimpi son of Joginder Singh, all residents of village Maseet, Police Station Sultanpur Lodhi, Kapurthala, as well as respondent/complainant namely Karnail Singh Jammu son of Puran Singh, resident of near Gurudwara Masitan, Tibba, District Kapurthala, appeared in the Court and got recorded their statements before the undersigned with regard to compromise of the matter in the above said criminal miscellaneous.

(i) *Five persons namely Balkar Singh @ Balkara son of Sucha Singh @ Suchi, Amarjit Singh son of Parkash Singh, Kamaljeet Singh @ Bikki son of Joga Singh, Kulwinder Singh @ Sunny son of Joga Singh and Sandeep Singh @ Rimpi son of Joginder Singh, all residents of village Maseet, Police Station Sultanpur Lodhi, Kapurthala, have been arrayed as accused in the present FIR.*

(ii) *As per statement of investigating officer, none of the petitioners/accused have been declared proclaimed offender neither any proceedings for declaring them as PO is pending in any Court.*

(iii) *Both the parties have effected compromise which is genuine, voluntary and is not the result of any threat, pressure or undue influence etc. in any manner.*

(iv) *As per statement of investigating officer, none of petitioners/accused are involved in any other occurrence.*

(v) *At this stage, no proceedings are pending in this Court related to present FIR.*

(vi) *As per statement of investigating officer, there is only one victim/complainant namely Karnail Singh Jammu son of Puran Singh, resident of near Gurudwara Masitan, Tibba, District Kapurthala, in the present FIR."*

A perusal of the aforesaid report 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.

I have heard learned Counsel for the petitioners, learned

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.***

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. Therefore, FIR No.251 dated 23.10.2019 registered under Sections 323, 308, 148 and 149 of the IPC at Police Station Sultanpur Lodhi, District Kapurthala (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

23.01.2020

Vinay/kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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