

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 17312 of 2021

Date of Decision: 26.8.2021

Sukhvir Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab.

Ms. Arti Kaur, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 11 dated 26.1.2001 registered under Sections 323, 325, 34 IPC, Police Station Phillaur, Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom including the order dated 17.5.2002 (Annexure P-3), passed by learned SDJM, Phillaur, vide which the petitioner was declared a proclaimed offender.

The afore-mentioned FIR was got registered by respondent No. 2 against the petitioner and other co-accused alleging that on 13.1.2001, the petitioner and co-accused had abused him and inflicted injuries on his person. It has further been alleged that the petitioner had given brick bat blows on the chest of the complainant-respondent No. 2.

Learned counsel for the petitioner submits that the present FIR was registered in the year 2001 and thereafter with the intervention of the

respectables, the parties had entered into a compromise dated 4.10.2002

(Annexure P-2).

Learned counsel further submits that the petitioner went to Holland as he was under *bona fide* impression that since the matter has been compromised, the case pending against him would be withdrawn by the complainant and, therefore, he could not appear before the trial Court and ultimately vide order dated 17.5.2002, passed by the trial Court, he was declared a proclaimed offender; that the petitioner never came back to India since 2001 and was not aware about any proceedings pending against him; that on 1.4.2021, a compromise with respondent No. 2 on the same terms and conditions as mentioned in the compromise dated 4.10.2002, was also effected on behalf of the petitioner.

Learned counsel further submits that the case of the petitioner is on similar footing to his co-accused Pakhar Ram, who has since been acquitted of the charges framed against him, by the trial Court vide order dated 22.2.2006. It is further submitted that the evidence being the same, no purpose would be served by continuing with the criminal proceedings as against the petitioner. In this regard, he has placed reliance upon a Division Bench judgment of this Court in ***Sudo Mandal @ Diwarak Mandal Vs State of Punjab, 2011(2) RCR (Criminal) 453***. Learned counsel has further placed reliance upon the judgments of the Single Benches of this Court in ***Pardeep Kaur versus State of Punjab and another 2019(3) R.C.R (Criminal) 775, Amandeep Arora versus State of Punjab, CRM-M-22262-2019***, decided on 28.5.2019 and ***Rajesh Kumar @ Billa versus State of Punjab 2019(3) R.C.R. (Criminal) 351***.

E.converso, the learned State counsel has vehemently contended that the entire case of the petitioner is based on the judgment of

Sudo Mandal's (supra). However, the judgment in the said case based on the re-appreciation of evidence in appeal, is distinguishable. He further contended that the trial Court had rightly declared the petitioner as a proclaimed offender, and thus, keeping in view the act and conduct of the petitioner, he is not entitled to any equitable relief from this Court.

Learned counsel for respondent No. 2 has not disputed the factum of compromise between the parties.

I have heard the learned counsel for the parties.

In the present case, the petitioner was declared proclaimed offender and has not faced the trial. A compromise has been effected between the parties and similarly situated co-accused Pakhar Ram had already been acquitted by the trial Court on 22.2.2006 and no case could be made out as against the petitioner because of the compromise effected between the parties.

Section 482 of the Code of Criminal Procedure is as follows:-

“Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

The above provision recognizes the inherent power of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the Criminal Courts indicates that there is a power of the Criminal Court to make such an order as may be necessary to meet the ends of justice.

I am conscious of the fact that the powers under Section 482

present case, where compromise has been effected accused will face empty formality of trial.

The Division Bench, in the case of *Sudo Mandal* (supra), held that when on the same set of evidence, the accused tried earned acquittal, the same benefit deserves to be given to the absconding accused. It was held as under:-

“24. The above provisions recognize the inherent powers of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the criminal Court indicates that there is a power for the criminal Courts to make such an order as may be necessary to meet the ends of justice. We are conscious of the fact that the powers under Section 482 of the Code of Criminal Procedure are to be exercised very sparingly and in exceptional cases where abuse of the process of the Court would result in serious miscarriage of justice. The inherent powers of the Court should not be exercised to stifle legitimate prosecution. But at any rate the settled position is that this Court has the jurisdiction to quash the entire criminal proceedings to prevent the abuse of the process of the Court in order to secure the ends of justice. In our considered view the same inherent powers can be exercised when this Court finds that the innocent accused, who had absconded would simply face the empty formality of trial with the very same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal. Bringing the absconding accused to face the trial in this case in the above facts and circumstances would amount to abuse of the process of the Court. To secure the ends of justice, we hereby quash the entire proceedings as against the absconding accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal pending before Judicial Magistrate Ist Class, Bathinda/Sessions Judge, Bathinda, as no useful purpose will be served even if they are

procured and ordered to face the trial in this case.”

Consequently, keeping in view the compromise having been effected between the parties and the law laid down by a Division Bench of this Court in *Sudo Mandal's* case (Supra), no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No. 11 dated 26.1.2001 registered under Sections 323, 325, 34 IPC, Police Station Phillaur, Jalandhar (Annexure P-1) and all the consequential proceedings, arising therefrom, including the order dated 17.5.2002, passed by learned SDJM, Phillaur, declaring the petitioner a proclaimed offender, are quashed qua the petitioner on the basis of compromise dated 4.10.2002 (Annexure P-2) and 1.4.2021 (Annexure P-5), subject to deposit of costs of Rs. 2.50 lacs in the Government Treasury under a head to be nominated by the trial Court within a period of two months from today.

In case the costs is not deposited, the present petition shall be deemed to be dismissed without any further costs.

Keeping in view the fact that the petitioner is residing abroad, the trial Court will make an endeavour to deposit the amount through demand draft on an application moved by any authorized person or counsel on behalf of the petitioner.

Needless to say that parties shall remain bound by the terms of compromise.

(HARNARESH SINGH GILL)
JUDGE

August 26, 2021
Gurpreet

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