

CRM-M-19093-2021 (O&M)

232

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

**CRM-M-19093-2021 (O&M).
Decided on: November 16, 2021.**

Gurmej Singh and others

.. Petitioners

VERSUS

State of Punjab and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Dilpreet Singh Gandhi, Advocate,
for the petitioners.**

Mr.Randhir Singh Thind, DAG, Punjab.

**Mr.Anand Kaushal, Advocate, for
Mr.Vikas Gupta, Advocate, for respondent No.2.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.31 dated 5.2.2021, under Sections 323, 324, 452, 379-B, 506, 148 and 149 IPC, registered at Police Station Chheharta, District Amritsar (Annexure P1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 23.2.2021 (Annexure

CRM-M-19093-2021 (O&M)

P2).

The present petition is for quashing of FIR based upon compromise and has been filed by the four petitioners namely Gurmej Singh @ Gujjar @ Gurmail Singh, Sarwan Singh @ Vijay, Joban Singh (minor) and Vikramjit Singh @ Dhoni.

As per the FIR lodged on the basis of statement of Sandeep Kumar, he has been running a photography shop near the house in the street Bedia near Hanumaan Mandir, Chheharta, Amritsar. On 4.2.2021, around 6:30 P.M, when he was standing outside his shop, suddenly one Innova Car of silver colour came in which 5-6 unidentified persons were there. Out of them one Sarwan Singh @ Vijay (petitioner No.2) along with them one motorcycle Bullet bearing registration No.PB-46-C-8565 on which Gurmej Singh @ Gujjar (petitioner No.1) and Joban Singh (petitioner No.3) and Vikramjit Singh @ Dhoni (petitioner No.4) were sitting and one more splendour motorcycle on which three more persons were there, came to his shop and when they came out of the car immediately Sarwan Singh @ Vijay gave a datar blow which hit him on the palm of his left hand and in order to save him when he entered into the house of his uncle (chacha) Lakhwinder Pal, then all the three persons entered into the house of his uncle and Joban (petitioner No.3) gave datar blow on his head which hit him on his right side and Gurmej Singh @ Gujjar gave blow on him with the backside of datar which hit him on his left shoulder and then Vikramjit Singh @ Dhoni snatched away his gold chain weighing 2 tolas which was in his neck and the unidentified person

CRM-M-19093-2021 (O&M)

who came along with the petitioners gave him kick blows while he was lying down and they also threatened the petitioner and when he raised alarm *mar ditta mar ditta*, his uncle Lakhwinder Singh came down from his upper floor and in the meantime after seeing the neighbours all the above said persons ran away from the spot along with their respective vehicles and weapons. The bone of contention is that some time ago, Joban Singh was crossing on his motorcycle from the street while doing stunts and he had stopped him from doing so. Thereafter, his uncle Lakhwinder Singh, after arranging vehicle took him to civil hospital.

Notice was issued in the present case on 1.7.2021 and it was directed that respective replies by both the respondents i.e. by the State of Punjab as well as by respondent No.2/complainant be filed. In pursuance of said order, the State has filed reply by way of affidavit of Deputy Commissioner of Police, West, Amritsar, on behalf of respondent No.1 – State of Punjab.

In the reply, it has been stated that the matter is still at the investigation stage. While referring to para 5 of the affidavit, it has been submitted by the learned State counsel that the petitioners are yet to be arrested and unknown persons are yet to be traced and the snatched gold chain of the complainant and the weapons of offence used in commission of crime are yet to be recovered. It is further mentioned in the affidavit that criminal act of the petitioners has created a panic in the locality, as such, they are not entitled for quashing of FIR based upon compromise.

Learned Deputy Advocate General, Punjab, has further submitted that the petitioner have not come to the court with clean hands and they have actively and deliberately concealed material facts from this Hon'ble Court in the present petition. He has referred to para 4 of the affidavit filed by the State wherein it is mentioned that petitioner Nos.2 and 4 are involved in number of other cases. Para 4 of the affidavit is reproduced as under:-

“4. That it is pertinent to mention here that the petitioner No.2 Sarwan Singh and petitioner No.4 Vikramjit Singh @ Dhoni are involved in the following FIRs:-

FIRS AGAINST SARWAN SINGH

1 FIR No.103 dated 2.6.2016, u/S 323, 324,506, 148 and 149 IPC P.S. Chheharta, Amritsar City (untraced).

2 FIR No.311/2015, under Section 379-B IPC,P.S. Civil Lines, Amritsar (pending for trial).

3 FIRNo.341/2015, u/S 379-B IPC, P.S. Civil Lines, Amritsar (Convicted).

FIRS AGAINST VIKRAMJEET SINGH @ DHONI.

1 FIR No.71/2015, u/S 389, 420,419, 120-B, 171 IPC, P.S. Chheharta, Amritsar (pending for trial).

2 FIR No.53 dated 27.2.2021 u/S 21C and 29 NDPS Act, P.S. Chheharta, Amritsar (under investigation).”

Learned Deputy Advocate General, Punjab, has further

CRM-M-19093-2021 (O&M)

submitted that a bare perusal of the affidavit shows that the petitioners especially petitioners No.2 to 4 have actively concealed the facts from this Court and it was their duty to have disclosed to this Court regarding the pendency of other cases in which they are involved. Apart from this, although the petitioners have stated that the petitioners are not declared as proclaimed offenders but in fact, in the present case all these petitioners although not declared as proclaimed offenders, are absconding from justice despite the fact that the FIR was registered in the month of February 2021 which is more than 8 months ago and the police is yet to investigate the matter and to ascertain as to who were the unidentified persons who had actually snatched the gold chain and the weapons used are also yet to be recovered. He has further submitted that such offences are offences against the society and therefore, in view of the facts and circumstances of the present case, he has opposed the quashing of the FIR based upon compromise.

I have heard the learned counsel for the parties.

Although the present petition is for quashing of FIR based upon compromise and the learned counsel for respondent No.2 has also appeared and has stated that he does not wish to pursue the present FIR but for the purpose of quashing of the FIR based upon compromise various parameters have to be seen in view of the law laid down by the Hon'ble Supreme Court in **Gian Singh Versus State of Punjab and others (2012) 10 SCC 303, State of Madhya Pradesh Versus Laxmi**

Narayan and others, 2019 (2) RCR (Crl.) 255, as well as the judgment of larger Bench of this Court in *Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*.

Firstly, the petitioners have not come to this Court with clean hands. It was the duty of the petitioners to have disclosed in the petition with regard to pendency of number of other FIRs against petitioners Nos.2 and 4 but they have actively concealed the same and there is no justification forthcoming in this regard. It is only when a notice was issued in this case and the State had filed an affidavit in response to the notice of motion and had stated in the affidavit that number of cases are pending against petitioner Nos.2 to 4. Furthermore, after lodging of the FIR in the month of February 2021, none of the petitioners have joined investigation nor have they cooperated with the investigation process and according to the State they are absconding from justice. While considering the quashing of FIR based upon compromise, it has to be seen at the first instance as to whether the continuation of FIR or any prosecution would amount to abuse of process of law or not. There is nothing in this case to show that further prosecution would be an abuse of process of law. The power to quash FIR based upon compromise has to be exercised with care and caution and not in a mechanical manner.

In view of above, this Court is of the opinion that it is not a fit case for quashing of the FIR based upon compromise particularly in view of the fact that the petitioners have not come to this Court with clean hands and they have concealed material facts from this Court.

CRM-M-19093-2021 (O&M)

Consequently, the present petition being devoid of any merits is hereby dismissed.

November 16, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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