

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

CRM-M-43054-2020

Date of decision : 01.03.2021

Barinder Singh and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present : Mr. Baljeet Beniwal, Advocate
for the petitioners.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

[1.] Prayer in this petition is for quashing of FIR No.159 dated 04.12.2018 registered under Sections 323, 452, 506, 148 and 149 IPC at Police station Bullowal, District Hoshiarpur along with all the subsequent proceedings arising therefrom, on the basis of compromise.

[2.] Notice of motion was issued on 21.12.2020 and both the parties were directed to appear before the Illaqa Magistrate/trial

Court/Duty Magistrate for recording their statements in the context

of genuineness of the compromise. Illaqa Magistrate/trial Court/Duty Magistrate was also directed to submit its report with regard to genuineness of the compromise.

[3.] In compliance of the aforesaid order, trial Court has submitted its report to the following effect:-

“Complainant Malkiat Singh appeared and suffered statement to the effect that FIR No.159 dated 04.12.2018, u/s 323, 452, 506, 148, 149, PS Bullowal, Hoshiarpur, was registered on his statement against Barinder Singh, Jaswant Singh, Upkar Singh, Jasvir Kaur, Kulwinder Kaur and Balwinder Singh accused, who have now entered into a compromise with the complainant. Complainant stated that with the intervention of respectables of the society, a compromise has been effected with the accused party without any fear, coercion, undue influence and voluntarily. Balvir Kaur wife of Malkiat Singh also recorded her statement re-affirming compromise between parties. Further, a compromise deed was placed on record as Ex.C-1.

It is further stated that complainant has no objection if FIR No.159 dated 04.12.2018, u/s 323, 452, 506, 148, 149, PS Bullowal, Hoshiarpur, and proceedings subsequent thereto be quashed against accused namely Barinder Singh, Jaswant Singh, Upkar Singh, Jasvir Kaur, Kulwinder Kaur

and Balwinder Singh.

Statement of accused Barinder Singh, Jaswant Singh, Upkar Singh, Jasvir Kaur, Kulwinder Kaur and Balwinder Singh recorded separately who have also re-affirmed the factum of compromise and amicable settlement with complainant. To ensure the identity of parties, Adhar cards are taken on record.

In compliance to order dated 21.12.2020, the undersigned submits as hereinunder:-

i) that on examination of statements of complainant Malkiat Singh son of Tarsem Singh and accused party, compromise effected between them, appears to be bonafide, voluntary, genuine, lawful and without any kind of pressure, undue influence and fear from any side. Further, copy of compromise deed arrived between the parties is placed on record Ex. C-1.

ii) that as per statements given by accused Barinder Singh, Jaswant Singh, Upkar Singh, Jasvir Kaur, Kulwinder Kaur and Balwinder Singh, they have been released on anticipatory bail vide order dated 20.12.2018, passed by the Court of Shri Parminder Singh Rai, Ld. Additional Sessions Judge, Hoshiarpur. Further, as per the report received from SHO concerned, PS Bullowal, all the accused named above joined investigation and furnished bail bonds/surety bonds before IO in above noted FIR No.159 dated 04.12.2018, which is a cross case to DDR No.25 dated 09.12.2018,

which is a cross case to DDR No.25 dated 09.12.2018. Thus, all the accused/petitioner are on bail.

iii) that as per report received from SHO concerned, PS Bullowal, Hoshiarpur, FIR No.130 dated 20.10.2011, u/s 323, 324, 341, 148, 149 IPC PS Bullowal, Hoshiarpur, was registered against accused Malkiat Singh son of Tarsem Lal and he had been convicted by the Court of Shri Gursheer Singh, Ld. JMJC Hoshiarpur vide judgment and order dated 25.09.2018 and sent to imprisonment to two years.

As per the statement of accused Jaswant Singh and Upkar Singh, FIR No.93 dated 08.06.2020, u/s 323, 324, 506, 148, 149 IPC (Section 326 IPC added later on), PS Bullowal is pending against accused regarding which petition to quash the said FIR in CRM-M-12/2020 is already filed before Hon'ble Punjab & Haryana High Court pending for 01.03.2021. Further, against accused Upkar Singh, a complaint titled as "Upkar Singh vs. Hardeep Singh and ors." CNR No.BHO030013522017, CIS No: COMI/68/2017, is pending before the Court of undersigned for 01.02.2021. Further, no other case is pending against either of the parties with PS Bullowal, Hoshiarpur.

This report submitted from your kind perusal alongwith statements of the parties."

[4.] Perusal of the aforesaid report would show that the parties have effected genuine compromise. The complainant is not willing to carry on with the prosecution case against the petitioner. In view of compromise there is a remote possibility of the complainant coming forward to support the prosecution case. The powers under Section 482 Cr.P.C can be exercised in such like situation in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be in fully consonance with the direction issued by the Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052*** and ***Gian Singh vs.State of Punjab and another, 2012 (4) RCR (Crl.) 543.***

[5.] Learned State counsel has objected to the aforesaid course, but in the interest of justice and also to prevent unnecessary continuation of criminal proceedings, I am of the view that inherent powers under Section 482 Cr.P.C can be exercised in order to achieve ends of justice.

[6]. Resultantly, FIR No.159 dated 04.12.2018 registered under Sections 323, 452, 506, 148 and 149 IPC at Police station Bullowal, District Hoshiarpur as well as all the subsequent proceedings arising therefrom, are hereby quashed.

[7]. Petition stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

01.03.2021
Dinesh

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No