

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(120)

CRM-M-45871-2019 (O&M)

Date of Decision: 08.10.2021

Lovepreet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jasjeet S. Dhaliwal, Advocate
for the applicant-petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab
for State-respondent No.1.

Mr. Goldy Jakhar, Advocate
for complainant-respondent No.2.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-33262-2021

Prayer made in the application is for preponement of the hearing
of main case, which is fixed for 10.12.2021.

Noticing the prayer made in the application, it is allowed. The
hearing of the main case is preponed to today and it is ordered to be taken
on Board.

CRM-M-45871-2019

This is the second petition filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of the FIR No.44 dated 03.07.2016, registered for offences under Sections 326, 323, 380, 148 and 149 of the Indian Penal Code, 1860, at Police Station Sarhali, District Tarn Taran (Annexure P-1) alongwith all subsequent proceedings arising therefrom, on the basis of compromise/affidavit dated 03.06.2019 (Annexure P-5).

Facts, in brief, are that FIR (Annexure P-1) had been lodged by Karanjit Singh on the allegation that on 27.06.2016 at 08.30 P.M., when he was having dinner at a restaurant, Lovepreet Singh (present petitioner) and Angrej Singh, who were armed with *datar*, Nishan Singh and Gurjan Singh, who were empty handed, along with 3 to 4 unidentified persons, came on motor-cycles and on the instigation of Nishan Singh, who accused, Karanjit Singh of stealing his dog, attacked him and inflicted injuries on him. On an alarm being raised, the accused snatched a gold chain from the complainant, while fleeing from the spot.

Counsel contends that the FIR is outcome of a petty dispute between the parties and the petitioner, who had lodged a complaint, withdrew it on 15.12.2017 (Annexure P-3). He submits that the dispute being purely personal in nature, has been settled by virtue of a compromise, which is reflected in the affidavit dated 03.06.2019 (Annexure P-5) executed by the complainant-respondent No.2, wherein he has submitted that he does not want to pursue the case and he does not have any objection

in case the FIR is quashed. He submits that in compliance of the order dated 08.04.2021 passed by this Court, the petitioner, complainant and the Investigating Officer have appeared before the trial Court and their statements have been recorded in support of the compromise. He submits that the petitioner had approached this Court earlier by filing a petition (CRM-M-39633-2018) seeking quashing of the FIR on merits, which was disposed of vide order dated 05.04.2019 as after investigation, a cancellation report had been prepared, but because of the delay in the presentation of the report, this Court imposed costs of Rs.25,000/- upon the erring official to be paid to the petitioner. Counsel submits that in compliance of the said order, petitioner has received the costs.

Heard.

On 08.04.2021, this Court passed the following order:-

“Prayer in this petition is for quashing the FIR No.44 dated 03.07.2016 under Sections 326, 323, 380, 148, 149 IPC registered at Police Station Sarhali, District Tarn Taran, Punjab, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 03.06.2019, Annexure P-5, arrived at between the parties.

Counsel for the petitioner has referred to Para 12 of the petition to submit that the petitioner has not been declared as Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. P.S. Walia, AAG, Punjab, accepts notice on behalf of respondent No.1-State and Mr. Goldy Jakhar, Advocate accepts notice on behalf of the complainant/respondent No.2. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 05.05.2021 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*

5. whether any other criminal case is pending against the accused.

Report of Illaqa Magistrate/trial Court be awaited for 08.09.2021.”

After recording the statements, the trial Court has submitted a report, the relevant extract of which is as under:-

“Most humbly, it is submitted in compliance of order dated 08.04.2021 passed by Hon'ble Punjab and Haryana High Court, Chandigarh, in the criminal Misc. petition cited in the subject above, statement of complainant/respondent no.2 Karanjit Singh, statement of petitioner/accused Lovepreet Singh and statement of Investigating Officer ASI Gurpreet Singh No.1072/TT have been recorded. There are four accused at present in the present FIR out of which only accused Lovepreet Singh has appeared before this Court to record his statement as per the order of Hon'ble High Court. As per the statement of Investigating Officer, no accused out of four accused persons has been declared absconded (sic absconder) from law in the present case. In the present case Karanjit Singh is complainant and sole injured/aggrieved person who also appeared before this Court to record his statement.

2. *Earlier, investigating agency had filed cancellation report before Ms. Anuradha, the then Judicial Magistrate Ist Class, Tarn Taran, the Predecessor of this Court which was returned back for further investigation. At present, no judicial proceedings are pending before this Court. As per statement of Investigating Officer no criminal case is pending against any of the accused persons. The detailed report, original statements of the parties and Investigating Officer ASI Gurpreet Singh No.1072/TT are enclosed herewith, as desired.”*

Supreme Court in ***Gian Singh Versus State of Punjab and another***, 2012(4) RCR (Criminal) 543 has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. A Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another***, 2007(3) RCR (Criminal) 1052 and Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another***, 2013(4) RCR (Criminal) 102 has held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving non-compoundable offences.

Counsel for the parties are also ad idem that in view of the settlement of the dispute between the parties, the present petition deserves to be accepted. In view of the above, no purpose will be served in continuing with the criminal proceedings.

Accordingly, the petition is allowed. FIR No.44 dated 03.07.2016, registered for offences under Sections 326, 323, 380, 148 and 149 of the Indian Penal Code, 1860, at Police Station Sarhali, District Tarn Taran (Annexure P-1) alongwith all subsequent proceedings arising therefrom, are quashed qua the petitioner.

(SUVIR SEHGAL)

JUDGE

08.10.2021

Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes