

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

233

CRM-M-49158-2019

Date of decision: 24.02.2021

Sahil Seth and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Kuljit Singh Bal, Advocate
for the petitioners.

Mr. P.S. Walia, Asstt. A.G., Punjab
for respondent No.1.

Mr. Suresh Kumar Arya, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioners-**Sahil Seth, Shiv Kumar Seth and Bhupinder Kumar @ Bhupan** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.141 dated 01.06.2019 registered under Sections 454, 380, 342 and 427 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Sadar Amritsar, District Police Commissionerate Amritsar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 04.10.2019 (**Annexure P-2**) effected with respondent No.2-**Neeru**.

The above said FIR was registered on statement of respondent No.2-Neeru. In her statement respondent No.2 alleged that she was married with Sahil Seth (petitioner No.1) on 14.03.2010 and one daughter namely Anamika was born out of the said wedlock. After

marriage her husband started quarreling on petty issues. On 07.04.2018 after giving beatings and quarreling he left the house. On 01.06.2019 when she along with her daughter and cousin Satnam Singh had gone to Lawrence Road for personal work leaving her servant Pinki at home, the petitioners along with their servant Bhupinder Kumar @ Bhupan trespassed into the house after scaling the gate, cutting the locks of main gate and breaking down bolt of wooden door of entry gate. One of them detained Pinki and they committed theft of valuables including jewellery as mentioned in her statement. On being informed by her servant Pinki, she along with Satnam Singh and her daughter returned and when she was entering her house Bhupinder Kumar @ Bhupan had pushed her and ran away from the spot. The occurrence was also witnessed by Hardeep Singh friend of her brother.

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.

Vide order dated 22.01.2020, Co-ordinate Bench of this Court directed the private parties to appear before the trial Court/Illaq Magistrate on 05.02.2020 for recording their statements with regard to compromise/settlement and directed the trial Court/Illaq Magistrate to submit a report before the next date of hearing i.e. on 30.04.2020 regarding the genuineness and voluntary nature of the compromise.

In compliance of the above said order, learned Additional Chief Judicial Magistrate, Amritsar has recorded the statements of both the parties and submitted report dated 10.02.2020. The relevant part of the same reads as under:-

"Pursuant to the order dated 22.01.2020 passed by the Hon'ble High Court in CRM-M-49158 of 2019, report is hereby submitted that the complainant Neeru daughter of Hardial Singh and accused persons namely Sahil Seth, Shiv Kumar Seth and Bhupinder Kumar @ Bhupan appeared in the Court on 05.02.2020 for getting their statements recorded in case bearing FIR no.141 dated 01.06.2019, under section 454, 380, 342, 427 and 34 of IPC registered at P.S Sadar, Amritsar. This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any pressure, undue influence or coercion. Following is the requisite information, as directed:-

- 1. That three accused persons namely Sahil Seth, Shiv Kumar Seth and Bhupinder Kumar @ Bhupan are arrayed in the present FIR; However, only two accused namely Sahil Seth and Shiv Kumar Seth appeared in the Court for recording their statement and that they have never been declared absconding/proclaimed offender.*
- 2. That Neeru is the complainant and affected/aggrieved person in the present FIR and she appeared in the Court and made her statement in support of the compromise.*
- 3. That the challan has yet not been presented before the Hon'ble Court.*
- 4. That the compromise effected between complainant Neeru and accused persons namely Sahil Seth and Shiv Kumar Seth is genuine, voluntarily and out of free will of the parties.*

Since, third accused namely Bhupinder Kumar @ Bhupan has not turned up for getting his statement recorded; therefore, it cannot be said whether the compromise effected between complainant and accused Bhupinder Kumar @ Bhupan is genuine or not."

Respondent No.1-State has not filed any reply to the

petition.

I have heard learned counsel for the petitioners, learned State counsel and learned counsel for respondent No.2 and gone 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 ***Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052; Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan***

and others (Supreme Court) : 2019 (2) RCR (Criminal) 255.

A perusal of the report of learned Additional Chief Judicial Magistrate, Amritsar reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence.

Statements of petitioner Bhupinder Kumar @ Bhupan, who was servant of the petitioners and Pinki, who was maid servant of complainant Neeru, could not be recorded as Bhupinder Kumar @ Bhupan and Pinki left their employment and their whereabouts could not be ascertained by them.

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.

The offences involved in the present case are overwhelmingly and predominantly of private character and do not have any social impact. The parties have resolved their entire dispute among themselves. The compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society. In view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak. 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.

In view of the above, the petition is allowed and FIR No.141 dated 01.06.2019 registered under Sections 454, 380, 342 and 427 read with Section 34 of the IPC at Police Station Sadar Amritsar,

District Police Commissionerate Amritsar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

24.02.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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