

CRM-M-53888-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53888-2019

Date of Decision: 20.08.2021

Mukand Singh and others

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rajesh Bhatheja, Advocate, for the petitioners.

Mr. Randhir Singh Thind, DAG, Punjab.

Ms. Palika, Advocate, for
Mr. Sandeep Sharma, Advocate, for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the FIR No.15 dated 06.03.2018, under Sections 452,323,506,148,149 of the Indian Penal Code, 1860 and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Bariwala, District Shri Muktsar Sahib based on compromise.

As per the allegations which are contained in the FIR which was lodged at the instance of complainant Sukhjit Kaur wife of Joginder Singh (Respondent No.2), on 10.11.2017 Mukand Singh, Amarjit Singh etc. came to her house and hurled abusive language and gave her beatings

and also pushed and pulled her. The accused also snatched away the keys of her house and issued threats on the point of weapon and drove her out of the house and told her that they would get her land and that of her husband's land transferred in the name of their girl and because of the aforesaid incident, she got terrified and now she has come to know that the present petitioners and some other persons came to her house and made an announcement at Gurdwara Sahib whereby they warned that no one should take the land of Joginder Singh on contract as they would themselves cultivate the said land and, therefore, the accused persons have created panic in the village with their muscle power and in case any untoward incident happens to her, then these persons will be responsible for the same.

The learned counsel for the petitioners has further submitted that the present FIR is false and frivolous and it was a case of no injury. He submitted that even a bare perusal of the FIR would suggest that the contents of the FIR were vague and were made in a mechanical manner and the only subject matter of the FIR comes out to be an apprehension of the complainant at the hands of the accused persons due to some pre-existing disputes and no harm or injury was caused to anybody. He further submitted that although an offence under Sections 25/27 of the Arms Act, 1959 was also included in the FIR but on the reading of the FIR ex-facie no offence under the Arms Act was made out nor there has been any use of any firearm by anybody. He submitted that during the course of investigation in fact a compromise was arrived at between the complainant and all the accused who are the present petitioners with the intervention of the respectables of the village and in pursuance thereof, a compromise deed

was also executed vide Annexure P-2 dated 18.11.2019 and in support of the same, an affidavit was also filed by the complainant vide Annexure P-3. He submitted that it is a case which does not fall in the category of any serious and heinous crime on the face of it as it was a case of no injury and no offence was committed and furthermore, a compromise has been amicably arrived at between the parties. He submitted that in view of the above, the present FIR and all the consequential proceedings deserves to be quashed based upon the compromise as no useful purpose will be served in continuing with the prosecution.

On 17.12.2019 this Court issued notice of motion and the learned counsel for the State as well as the learned counsel for the complainant appeared and accepted notice and this Court also directed the petitioners as well as respondent No.2-complainant to appear before the learned Area Magistrate for recording of their statements and the Court would satisfy itself with regard to the authenticity of the compromise reached and the fact that it has been arrived at without any kind of undue influence or pressure, and to send its report. The Area Magistrate was also asked to verify whether there is any person involved in the occurrence, who is not a party to the present petition or not and also to determine as to whether any other criminal cases of like nature or otherwise are pending against the petitioners or not.

A report has been received from Judicial Magistrate Ist Class, Sri Muktsar Sahib dated 28.01.2020 stating that in pursuance of directions issued by this Court the complainant and the accused persons namely, Mukand Singh, Gurhimat Singh, Gurlal Singh, Ajay Pal Singh and Amarjit

Singh got recorded their statements and as per the statement recorded by the complainant Sukhjit Kaur and the aforesaid five accused persons they have arrived at a compromise with the intervention of the Panchyat and respectable persons and they have amicably settled their dispute in order to maintain peace and harmony amongst themselves for their welfare in future. The statement of ASI Ranjit Singh was also recorded who stated that no criminal proceedings are pending against any person nor anybody has been declared as Proclaimed Offender and there is no other person involved in the occurrence except the present five petitioners. The learned Judicial Magistrate Ist Class also recorded his view that the compromise is genuine, voluntary and without any coercion or undue influence.

Ms. Palika, learned counsel for the complainant has also submitted that an amicable settlement has been reached at between the petitioners and the complainant. The complainant does not wish to pursue the present criminal prosecution in view of this fact.

Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has submitted that although it was a case of no injury but in the present case challan has already been presented before the competent Court.

I have heard the learned counsel for the parties.

A perusal of the FIR as well as the subject matter of the present case would show that an FIR was lodged by the complainant on the ground that the petitioners had come to her house and extended threats with an apprehension that they may grab her or her husband's land. However, it was a case of no injury. So far as the inclusion of provisions of the Arms Act in the present case is concerned, there is nothing on record to show that any

arm was used for the commission of any offence. Although an FIR based upon compromise should not be quashed in case where Arms Act is involved but in the facts and circumstances of the present case it appears that there is no offence attributable to the petitioners with regard to the use of any arm. The next issue for consideration before this Court would be as to whether the present FIR falls within the category of any serious or heinous offence or not. The facts and circumstances of the present case would show that the present case does not fall in the category of serious or heinous crime as it was a case of no injury and the FIR was based on apprehensions. Furthermore, the parties have already compromised with each other amicably and necessary statements have also been recorded not only of the petitioners and the complainant but also of the concerned police official who stated that the petitioners were not involved in any other case and they are not Proclaimed Offenders. The investigation of the case is already complete but according to the learned counsel for the petitioners during the pendency of the present petition, the police has presented the challan. However, the State has not filed reply in the present case.

Therefore, considering the totality and circumstances of the present case, this Court is satisfied that no useful purpose will be served in continuing the prosecution against the petitioners and therefore, in view of the law laid down by the Hon'ble Supreme Court in "***Gian Singh Vs. State of Punjab and another***", 2012(4) RCR (Criminal) 543, "***State of Madhya Pradesh Vs. Laxmi Narayan***", (SC) 2019(196) AIR 1 and Full Bench judgment of this Court in "***Kulwinder Singh Vs. State of Punjab***", 2007(3) RCR(Criminal) 1052, the present petition deserves to be allowed.

Consequently, the present petition is allowed and FIR No.15 dated 06.03.2018, under Sections 452,323,506,148,149 of the Indian Penal Code, 1860 and Section 25,27 of Arms Act, 1959, registered at Police Station Bariwala, District Shri Muktsar Sahib, and all the consequential proceedings thereon are hereby quashed qua the petitioners.

20.08.2021

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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