

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4681-2022 (O&M)

Date of Decision: 10.02.2022

Goldy Kheri alias Goldy Kumar and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

104-A

CRM-M-2019-2022

Goldy Kheri @ Goldy Kumar and others

....Petitioners

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Puja Chopra, Advocate
for the petitioners, along with
Mr. Balbir Kumar Saini, Advocate,
for petitioner no. 4.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. Ajay Chauhan, Advocate,
for respondents no. 2 and 3.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-M-2019 of 2022

By this petition, quashing of FIR No. 229, dated 26.12.2021, is sought, registered against the petitioners at Police Station Raipur Rani, District Panchkula, for the alleged commission of offences punishable under the provisions of Sections 307/323/427/506/34 IPC and Sections 25/54/59 of

the Arms Act, 1959, on the basis of a compromise arrived at between the petitioners (accused) and respondents no. 2 and 3.

The reply filed to this petition by the Assistant Commissioner of Police, Panchkula, dated 01.02.2022, is ordered to be taken on record.

Ms. Chopra, learned counsel for the petitioners, submits that even as per the complaint submitted by the petitioners which is also admitted by the ACP in his reply itself, the complainant had stated that he does not wish to pursue the matter, all injuries received by him and his companions being simple injuries and that the matter has in fact been compromised between them (which also is admitted in the reply filed by the ACP).

She also further points to a part of the FIR where it is stated that petitioner no. 2 (Sagar Singh) 'fired' with a fire arm but with the complainant and his companions having saved their lives after fleeing from there, though it is stated that the petitioners 'broke' their car bearing no. HR-03-S-5590.

She therefore submits that there would be no reason whatsoever to continue with the criminal proceedings and the FIR consequently deserves to be quashed.

Though learned counsel for the complainant and alleged victim, i.e. respondents no. 2 and 3, also reiterates the same as the matter has been compromised between the parties, learned State counsel submits that, firstly, it was a written complaint given to the police by respondent no. 2, though of course as admitted even in the complaint, it was stated that the matter has been thereafter compromised.

He next submits that with there being a firearm discharge allegedly from an unlicensed weapon and with a empty shell having been

recovered from the spot and further, with 05 injuries also having been received (though not firearm injuries), the FIR does not deserve to be quashed even in terms of the ratio of the judgment of the Supreme Court in **State of Madhya Pradesh vs. Laxmi Narayan and others** 2019 (2) RCR (Criminal) 255.

Though of course as regards the empty shell, *prime facie* it would seem a little odd to this court, because seemingly only a single bullet is stated to have been fired (reference the following lines from the FIR):-

“In which a bullet has also been fired”.

It would therefore be strange that an empty shell would be recovered with such a shell normally remaining in the chamber of the firearm used; yet, as regards the allegation that even as per the complainant that a firearm was used and therefore an offence punishable under the provisions of Section 307 of the IPC has been added in the FIR and this court having observed that with an unlicensed firearm having been allegedly used, I would not be inclined to quash the FIR, learned counsel for the petitioners submits that she may be permitted to withdraw this petition at this stage, with liberty to file another one on the same cause of action after the investigation is over.

Learned counsel for respondents no. 2 and 3 further adds that in fact the complainants are also being summoned time and again by the police to make statements against the petitioners, which they do not want to, they already having stated that they do not wish to pursue the criminal proceedings.

Even so, in view of what has been observed hereinabove and with counsel for the petitioners also not at this stage pressing the petition in

view of what has been observed by this court, the petition is ordered to be dismissed as withdrawn with liberty to the petitioners to file any petition subsequently, upon completion of investigation, which of course would be considered wholly on its own merits and with it further to be observed by this court that at that stage it would also have to be considered as to whether the FIR can be quashed when an investigation is already complete or not, (in the specific circumstances of the case).

Naturally, the complainants will not be unnecessarily harassed, with of course proceedings as per law, laid down in the Code of Criminal Procedure, to continue.

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By this petition, the petitioners seek the concession of 'pre-arrest bail' in the context of the same FIR registered at Police Station Raipur Rani, District Panchkula, on 26.12.2021.

Learned counsel for the petitioners submits that in view of what has been contended hereinabove in the context of the petition seeking quashing of the FIR, as has now been withdrawn, the petitioners at least deserve to be admitted to bail, especially when there is no firearm injury and all other injuries also are simple injuries.

Notice of motion.

On the asking of the court, Mr. Neeraj Poswal, A.A.G., Haryana, accepts notice on behalf of the respondent-State.

Though otherwise the usage of a firearm (if so used), is obviously a serious offence, especially if it is an unlicensed firearm, yet in the circumstances, the petitioners are directed to join investigation within 10

days from today and in case they are sought to be arrested, they would be released on bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

They shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioners in investigation, they would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation, in terms of the order of this court.

Adjourned to 21.04.2022.

A photocopy of this order be placed on the file of the other connected case.

February 10, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.