

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

201

**CRA-S-104-SB of 2005(O&M)
Decided on :20.12.2022**

Balvir Singh and another

. . . Petitioner(s)

Versus

State of Punjab and Others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mohd. Yousaf, Advocate
for the appellant No.1-Balvir Singh.

Mr. J.S. Arora, DAG, Punjab.

None for respondents No. 2 and 3.

SANJAY VASHISTH, J.(ORAL)

1. Present appeal has been filed by Balvir Singh & Piara Singh against the judgment passed by learned Additional Sessions Judge (Adhoc) Fast Track Court, Sangrur, in which both the appellants were convicted for the offences under Sections 307, 324/34 IPC and Section 27 of Arms Act. Appellant Balvir Singh was sentenced for imprisonment of five years along with fine and appellant Piara Singh was sentenced for three years alongwith fine.
2. On 24.11.2022, when appeal was taken up for hearing, following order was passed:-

“In case FIR No. 324, dated 25.10.2001, lodged under Sections 307, 324, 323, 34 of IPC and 27/54/59 of the Arms Act, registered at P.S. Dhuri, accused namely 1. Balvir Singh, 2. Piara Singh, 3. Dalip Kaur and 4. Charanjit Kaur, were tried by the Court of Ld. Addl.

Sessions Judge (Adhoc) Fast Track Court, Sangrur, vide Sessions Case No. 11 of 18.02.2002.

Vide judgment dated 17.12.2004, accused Charanjit Kaur and Dalip Kaur were acquitted of their charges, however, Balvir Singh and Piara Singh (appellants No.1 & 2, respectively) were convicted for offences under Sections 307, 324, 34 IPC and 27/54/59 of Arms Act, and were sentenced for a substantive period of five years under different heads of offences, apart the amount of fine.

Counsel for the appellants submits that appellant No.2 – Piara Singh has expired about a month back. Thus, this Court is left to decide with the appeal of appellant No.1 – Balvir Singh only. Counsel further submits that both the sides in the present case have common ancestors and both sides are related as cousin brothers to each others.

Now by way of notarized compromise-deed dated 12.04.2019, it has been stated by counsel for the parties that dispute has been amicably resolved between parties.

Let the factum of compromise be got verified by way of recording of statements of all the parties including that of appellant No.1 and respondents No.2 & 3, as per amended memo of parties (impleaded vide order dated 27.02.2020).

Accordingly, the affected parties are directed to appear before the Illaqa Magistrate on 07.12.2022, or any other date convenient to the Illaqa Magistrate, who shall record their respective statements with regard to the compromise and submit a detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. *Total number of persons arrayed as accused in the case;*
- ii. *Whether all the accused and complainant / victims are party to compromise;*
- iii *Whether any accused has been declared as a proclaimed offender or any such proceedings have been initiated or pending decision;*
- iv *Stage of the trial/proceedings; and*
- v *Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

To come up on 20.12.2022, awaiting report.

Reply by the respondent-State, if any, be filed on or before the next date of hearing. State to verify the life status of appellant No.2 – Piara Singh also, whether he is alive or not ?

Besides above, learned State counsel has produced the custody certificate dated 23.11.2022 in Court today, which shows total custody of appellant – Balvir Singh as 01 years, 08 months and 21 days. Said custody certificate is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the appellant(s).”

3. Learned Judicial Magistrate, Ist Class, Sangrur holding camp office at Dhuri has forwarded the report dated 15.12.2022 after recording of the statements. Same is reproduced as under:-

“To

*The Registrar General,
Hon’ble Punjab and Haryana High Court,
Chandigarh.*

Through Proper Channel.

Subject:- Report pursuant to order dated 24.11.2022 passed by Hon’ble Punjab and Haryana High Court in CRM-M-6430 of 2022 in CRA-S-104/SB of 2005 titled as “Balvir Singh Anr V/s State of Punjab & Others.” (Pending for 20.12.2022).

Respected Sir,

With due respect and regard, it is submitted that vide order dated 24.11.2022 passed by Hon’ble Punjab and Haryana High Court in CRM-M-6430 of 2022 in CRA-S-104/SB of 2005 titled as “Balvir Singh Anr. V/s State of Punjab & Anr”, the Hon’ble High Court had directed the parties to appear before the Illaqa Magistrate/trial Court on 07.12.2022 or any other date, convenient. The Trial Court was directed to submit the report on or before the next date of hearing of the Hon’ble High Court i.e. 20.12.2022.

In compliance of the orders of Hon’ble Punjab & Haryana High Court, the parties appeared before the Illaqa Magistrate/Trial Court on 07.12.2022 and their statements were recorded with regard to the genuineness of compromise.

The detailed report as desired is submitted as under:-

(i) This court has recorded arrayed as accused in this case?

This court has recorded the statement of MHC Davinderjeet Singh No.1227/Sgr presently posted at PS Sadar Dhuri, as per his statement, I have brought the police index for the year 2001 as per which present FIR no.324, dated 25.10.2001 was

registered against 4 accused persons i.e., namely Balvir Singh Son of Piara Singh. Piara Singh Son of Kartar Singh, Charanjit Kaur wife of Balvir Singh and Dalip Kaur wife of Piara Singh all residents of village Badalwarh, Tehsil Dhuri, District Sangrur.

- (ii) *Whether all accused and complainant/victims are party to compromise?*

This court has recorded the statement of MHC Davinderjeet Singh No.1227/Sgr presently posted at PS Sadar Dhuri, as per his statement, a cross case was got registered against respondent/aggrieved i.e., Balwinder Singh Son of Jarnail Singh, Jarnail Singh Son of Jora Singh, Baldev Kaur wife of Jarnail Singh, Jasvir Kaur wife of Palwinder Singh residents of village Badalwarh, Tehsil Dhuri, District Sangrur, Major Singh Son of Kehar Singh R/o village Pinjori District Sangrur, major Singh Son of Kehar Singh R/o village Chahar, District Sangrur and Moti Ram Bhia Son of Mahinder R/o village Pinjori District Ratia (Bihar) U/s 307, 324, 323, 34 of IPC and 27/54/59 of Arms Act, PS Dhuri.

- (iii) *Whether any accused has been declared as proclaimed offender or any such proceedings have been initiated or pending decision?*

None of the accused i.e., Balvir Singh Son of Piara Singh and Piara Singh Son of Kartar Singh had been declared proclaimed offender by any Hon'ble Court and no said proceedings have been initiated or pending against above said accused.

- (iv) *Stage of the trial/proceeding?*

As per police index accused had been convicted on 17.12.2004 by Jaspal Singh Chugh Addl. Sessions Judge Fast Track Court, Sangrur.

- (v) *Whether the compromise is genuine, voluntary and without or not?*

Yes, the compromise arrived between the parties is genuine, voluntary and made out of free will of the parties.

Complainant and accused have suffered separate statements to the effect that now with the intervention of respectable and relatives persons, they have voluntarily compromised the matter with each other without their being any pressure, coercion, any misrepresentation or undue influence and without any greed. They further stated in their separate statements that compromise is genuine one, voluntarily and without any coercion or any undue influence and the same is valid. Accordingly, the complainant does not want to pursue with the present FIR against the above said accused/petitioners. He further stated that he had seen the copy of compromise deed Ex. CX in the Court today and photocopy of the same was produced in the Court i.e. Ex. CX and identified his signature over the same. Present FIR and all the consequential proceedings are quashed against the above said accused/petitioner.

From the statements of the parties, Court is of the opinion that matter has been amicably settled between the petitioner/accused namely Balvir Singh Son of Piara Singh and complainant/respondents Balwinder Singh Son of

*Jarnail Singh and Jarnail Singh Son of Jora Singh.
The said compromise is genuine, voluntary and is
without any coercion or undue influence.*

Hence report submitted accordingly, plead.

Thanking you, Sir.

Yours faithfully,

*Gurbhinder Singh Johal
Judicial Magistrate Ist Class,
Sangrur Holding Camp Court at Dhuri.
(Unique Identification Code PB-0373)*

4. In view of the report forwarded by Court of Judicial Magistrate Ist Class, Sangrur, it is clear that parties have entered into compromise and report in this regard says that the compromise between the appellant Balvir Singh and respondents Balwinder Singh and Jarnail Singh is genuine, voluntary without any coercion and undue influence.

5. Mr. J.S. Arora, learned DAG, Punjab raises serious objections for quashing of the proceedings by submitting that as per guidelines of the Hon'ble Apex Court in Narinder Singh v. State of Punjab (SC)2014 AIR (SCW) 2065 Lawfinder DOC ID # 540604, at this stage, proceedings on the basis of compromise in the offences under Section 307 IPC can not be quashed.

6. Today, Death certificate dated 28.10.2022 has been produced by learned State counsel and same is taken on record, which confirms the statement of counsel for the appellant that another convict Piara Singh has also expired on 10.10.2022 i.e. during the pendency of the appeal.

In view of the fact that appellant-Piara Singh has expired, appeal qua him stands abated. However, same would be subject to the terms and conditions and observations made in the judgment **IOIN-**

CRA-S-4686-SB-2018 in CRA-S-4686-SB of 2018 Shivji Ram @ Dimple v. State of Punjab Law Finder DOC ID# 2076392

7. I have considered the submissions addressed by both the sides and the report forwarded by learned Magistrate in regard to the compromise and is of the view that out of the four accused, two were acquitted by the learned trial Court and other two namely Balvir Singh and Piara Singh were convicted. During the pendency of the appeal, co-convict Piara Singh also expired and only left out appellant is Balvir Singh, who was released on bail after undergoing total sentence of 1 year, 8 months and 21 days(as recorded in the order dated 24.11.2022).

8. In view of the totality of the circumstances, impugned judgment of the conviction is maintained, however order of sentence is modified to the extent of awarding the sentence to the appellant Balvir Singh to the period already undergone, as it was, at the time of releasing him on

bail. With the aforementioned observation (s) and modification (s),
present appeal stands disposed of.

(SANJAY VASHISTH)
JUDGE

December 20, 2022
Poonam Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No