

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(260)

CRM-M-5724-2022

Date of Decision:- 05.05.2022

Gurmit Singh and others

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kuldip S. Chaudhary, Advocate for the petitioners.

Mr. P.S.Walia, AAG, Punjab for State-respondent No.1.

Mr. Arvinder Singh, Advocate for respondents No.2 to 4.

SUVIR SEHGAL, J. (Oral)

On 11.02.2022, this Court passed the following order:-

*“Heard through video conferencing.**Prayer in this petition is for quashing of FIR No.144 dated 05.07.2018 under Sections 452/323/354/120-B of IPC, 1860, registered at Police Station Sohana, SAS Nagar, Mohali, Annexure P-1, on the basis of compromise deed dated 27.01.2022, Annexure P-2, arrived at between the parties.**Counsel for the petitioners submits that FIR is an outcome of a land dispute between the parties and during a scuffle between them, the clothes of the ladies got torn. He submits that there was no intention on the part of the petitioners to outrage the modesty of the women and the necessary ingredients of Section 354 IPC are not fulfilled. Still further, he submits that the dispute between the parties has been settled by virtue of compromise, Annexure P-2, and the petitioners have not been declared as Proclaimed Offender.**Notice of motion.**On asking of the Court, Mr. Ramdeep Partap Singh, DAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. As per instructions received by him, challan has been presented against all the three accused, charge has been framed and one witness has been partly examined. Mr. Arvinder Singh, Advocate accepts notice on behalf of the complainant/respondent No.2 as well as*

victims/respondents No.3 and 4. He admits the factum of compromise as well as the statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/Trial Court on 25.02.2022 or any date thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/Trial Court shall submit a report on or before the next date of hearing 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 05.05.2022.”

Upon instructions received from ASI, Bir Chand, State counsel submits that on the basis of the investigation conducted, charge has been framed under Sections 458, 354, 323, 201 and 120-B, IPC and by now two out of nine prosecution witnesses have been examined.

It has been urged by the counsel for the petitioners that although Section 458, IPC has been added, but its ingredients are not satisfied as the alleged incident took place in the evening between 06:30 P.M. and 07:00 P.M. and there is no allegation of any house-tress pass or house breaking during night hours.

Counsel appearing for respondents No.2 to 4 has supported the petition.

Heard counsel for the parties.

Pursuant to the above reproduced order, report has been received from the Trial Court and its relevant extract is reproduced as under:-

“1. As per the statement of SHO Inspector Kuljeet Singh, there are three accused in the present FIR and all the accused have appeared and no accused have been

ever declared proclaimed offender/absconding in the present case.

2. Complainant, Kishan Singh, injured/aggrieved Sukanya and Sunita Devi have appeared and made their statements in support of the compromise.

3. Present case is at the stage of prosecution evidence.

4. In view of the statements of the parties, this Court is satisfied that the compromise effected between the parties is genuine, voluntary and out of free will of the parties.

5. As per statement of SHO Inspector Kuljeet Singh, accused Rampal, Gurmit Singh and Puna Devi, no other criminal case is pending against all the accused.

Moreover, SHO, Inspector Kuljeet Singh also suffered statement to the effect that as per record, there is only one complainant, namely, Kishan Singh, son of Lt. Sh. Kayam Singh on whose statement the present FIR was registered.”

FIR, Annexure P-1, is primarily an outcome of a land dispute between the parties. No doubt the altercation is alleged to have taken place before sunset and minor injuries have been inflicted, but considering the fact that the dispute has been settled between the parties, who were on friendly terms, this Court is of the opinion that keeping the criminal proceedings pending will be futile as the chances of conviction of the accused are remote.

In view of the dictum of the Supreme Court in ***Narinder Singh Versus State of Punjab (2014) 6 SCC 466*** and ***Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal)***, this Court has no hesitation in setting aside the penal proceedings.

Accordingly, the petition is allowed. FIR No.0144 dated 05.07.2018 under Sections 452/323/354/120-B of IPC, 1860, registered at Police Station Sohana, SAS Nagar, Mohali, Annexure P- 1, along with all subsequent proceedings arising therefrom, are quashed qua the petitioners.

05.05.2022
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No