

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-17109-2021

Date of decision:08.07.2022

Jagdeep Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Mikhail Kad, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Ashdeep Singh, Advocate for
Mr. Neeraj Yadav, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

On 23.04.2021, this Court passed the following order:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.70 dated 23.02.2018 (Annexure P-1) registered under Section 354-A of Indian Penal Code, 1860, however, Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added later on, at Police Station City Sangrur, District Sangrur, alongwith all consequential proceedings arising therefrom on the basis of the compromise dated 12.03.2021 (Annexure P-2) arrived at between the parties.

Counsel for the petitioner submits that the FIR has been registered on account of some misunderstanding between the petitioner and complainant/respondent No.2 and the incidents as alleged in the FIR never took place. He submits that after investigation, a cancellation report was filed but it was not accepted by the trial Court and returned for re-investigation. He submits that the dispute between the parties has been settled by virtue of compromise (Annexure P-2). He has

referred to para 2 of the affidavit of the petitioner to submit that the petitioner has never been declared as Proclaimed Offender by any of Court.

Notice of motion.

On asking of the Court, Mr. A.S. Gill, Senior Deputy Advocate General, Punjab accepts notice on behalf of respondent No.1-State and Mr. Neeraj Yadav, Advocate, appears on behalf of respondent No.2. He has admitted the factum of compromise.

State counsel seeks and is granted time to file reply.

The parties and Investigating Officer are directed to appear before the Duty Magistrate/Illaq Magistrate on 25.05.2021 for getting their statements recorded with regard to the compromise. The Duty Magistrate/Illaq Magistrate shall submit the report on or before the next date of hearing. The report be forwarded to this Court 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 Duty Magistrate/Illaq Magistrate be awaited for 13.09.2021.”

Report has been received from the trial court pursuant to the above-said reproduced order and its relevant extract is as under:-

“It is submitted that as per F.I.R as well as statement of complainant Pal Kaur, the F.I.R was registered against Jagdeep Singh by her. Accused Jagdeep Singh has appeared in the Court and made his statement. As per his statement, he has neither been declared as proclaimed offender nor any proclamation proceeding is pending against him.

Further, as per F.I.R and statement of complainant, the FIR was registered against Jagdeep Singh by complainant Pal Kaur who has appeared in the Court and made her statement in support of the compromise.

It is further submitted that cancellation report in this case was presented on 22.11.2019 which was rejected by my learned Predecessor vide order dated 22.11.2019 and at this stage, only F.I.R is pending in this case.

The compromise as per statements of complainant Pal Kaur and accused Jagdeep Singh has been arrived at voluntarily and without any pressure or coercion between complainant Pal Kaur and accused Jagdeep Singh.

It is further urged that as per statement of accused Jagdeep Singh except the present case, no other criminal case is pending against him.”

At this stage, it deserves to be noticed that the matter has been investigated thrice over, three different cancellation reports were filed over the period of time, which were not accepted by the trial court and were returned with direction to re-investigate the matter. In this regard, the relevant part of the affidavit dated 01.06.2022 of Deputy Superintendent of Police, Sub-Divison Sangrur, District Sangrur, is reproduced as under:-

“The said inquiry/investigation report was approved by S.S.P. Sangrur on 03.10.2018. Accordingly, a cancellation report was submitted in this case on 08.12.2018 and the complainant had made the statement that she has agreed with the cancellation report moved by the Police and she does not want to continue with the present case. However, the Court of Ld. Chief Judicial Magistrate, Sangrur in its order dated 09.03.2019 had made observation that, "the offence under section 354-A is non compoundable as per provisions of section 320 Cr.P.C. So, the cancellation report cannot be accepted in the offence punishable u/s 354-A IPC being non compoundable. Hence the cancellation report is rejected and file is ordered to be sent to the concerned Police Station with the direction that matter be re-investigated and concerned S.H.O. is directed to submit his report within a period of three months."Then during re-investigation the complainant was joined the investigation on 10.07.2019 and her statement was recorded. Wherein, she stated that she does not want to continue with the present case. On the basis of

statement dated 10.07.2019 of the complainant, a cancellation report was again submitted on 13.07.2019. However, the same was not accepted and the Ld. Trial Court returned back the case file with the directions that matter be re-investigated. Thereafter matter was re-investigated and the complainant was again joined the investigation, who stated that she does not want to pursue her case. As, no new fact came on file, so the cancellation report was again submitted on 22.11.2019, however, the same was not accepted by the Ld. Court and the case file was returned with the directions to conduct re-investigation and then submit final report u/s 173 Cr.P.C. The case is under re-investigation since 22.11.2019.”

In view of the above development, this Court is of the view that possibility of conviction of the accused in the criminal proceeding is remote. Following the dictum of the Supreme Court in ***Ramawatar Versus State of Madhya Pradesh 2021 SCC Online SC 966*** and ***Ramgopal and another Versus The State of Madhya Pradesh 2021 (4) RCR (Criminal) 322***, and having regard to the facts and circumstances of the case, this is a fit case to exercise inherent powers of this Court and to set aside the criminal proceedings.

Accordingly, petition is allowed. FIR No.70 dated 23.02.2018 registered at Police Station City Sangrur, District Sangrur, Annexure P-1, under Section 354-A of Indian Penal Code, 1860, however, Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which was added later on, and all the consequent proceedings arising therefrom, are quashed qua the petitioner.

08.07.2022

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(SUVIR SEHGAL)
JUDGE

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