

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

269

CRM-M-52512-2019
Date of Decision: 31.05.2022

Parkash Singh and Ors.

..... Petitioners

Versus

State of Punjab and Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amandeep Chhabra, Advocate
for the petitioners.

Mr. R.S.Thind, DAG, Punjab.

Mr. D.P.S.Joora, Advocate for
Mr. Lakshay, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

The present is a petition filed under section 482 Cr.P.C., for quashing of FIR No.206 dated 06.11.2019 under Sections 452, 324, 323, 34 IPC registered at Police Station Kotbhai, District Sri Muktsar Sahib and all other consequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

The present FIR was lodged on the basis of statement made by Charanjit Kaur respondent No.2 that she has approximately 10 kilas of property and one Dici Singh @ D.C. Singh S/o Gurjant Singh is her neighbour (petitioner No.4) and since they were neighbours the son of the petitioner and the aforesaid Dici Singh @ D.C. Singh used to argue with each other normally. On 31.10.2019 at 2:00 p.m. when she was present at her house when her husband Gopal Singh and son Gurpreet Singh had finished their work from Muktsar Sahib and they were coming and from

behind them Parkash Singh, Sukhveer Singh and Balkarn Singh were coming with other persons on motorcycles and they were having sticks, they smacked Balkarn Singh as soon as they came down from the motorcycle and told to catch them and thereafter Sukhveer Singh gave blow with his kirpan on his left arm and then Parkash Singh also give blow with his kirpan on his left arm from reverse side then Balkarn Singh also gave blow with the iron rod on the left arm and thereafter they ran away.

Learned counsel for the petitioner submitted that in fact the dispute was between them pertaining to the adjoining land and it is not a case where any serious injury was attributed to any of the persons and the present case does not fall in the category of serious and henious offence. He submitted that since the parties were neighbours, an amicable settlement of the compromise was reached between them vide Annexure P-2 with the intervention of the respectables and therefore no useful purpose will be served in the case if any further prosecution is carried on. He further submitted that in pursuance to the orders passed by this court on 09.12.2019 the parties were directed to appear before the learned trial Court/Illaqa Magistrate and got their statements recorded with regard to the genuineness of the compromise. Thereafter, the statements were also recorded before the learned magistrate. He has submitted that in view of the aforesaid position the FIR may be quashed on the basis of compromise.

Mr. R.S.Thind, DAG, Punjab has stated that it is correct that all the four petitioners are accused in the present case and the complainant is only Charanjit Kaur and she is the injured in the present case and the case is at the investigation stage. However, the injuries are only pertaining to Section 324 and 323 of IPC.

Mr. D.P.S.Joora, Advocate for Mr. Lakshay, Advocate has appeared on behalf of the complainant-respondent No.2 and has stated that it is correct that with the intervention of respectable the compromise has been effected between the parties amicably and now the complainant does not wish to continue with the prosecution.

I have heard learned counsel for the parties.

This court vide order dated 09.12.2019 directed the parties to appear before the learned trial Court/Illaq Magistrate for getting their statements recorded regarding the genuineness of compromise. A report has been received from the Judicial Magistrate First Class, Gidderbaha dated 25.02.2020 in which it has been stated that the parties have appeared and got their statements recorded. Charanjit Kaur complainant-respondent No.2 stated that the compromise has been effected with the accused on her free will and without any pressure and there is no objection if the aforesaid FIR No.206 dated 06.11.2019 is quashed against the petitioners and that the compromise was in the favour of both the parties.

Similarly, the petitioners also got their statements recorded and they stated that the compromise has been effected without any pressure, threat or undue influence. The learned Illaq Magistrate has further reported that the compromise is genuine, voluntary and without any coercion or undue influence between the complainant and accused. 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 & Others"*, 2019 (2) SCC (CrL) 706** and Full Bench judgment of this Court in ***"Kulwinder Singh & Others Vs. State of Punjab & another"*, 2007(3) RCR(Criminal) 1052**, observed that if the parties arrive at a compromise

amicably and the case does not fall in the category of serious or heinous offence and then depending upon the facts and circumstances of each and every case the High Court can always exercise its jurisdiction under Section 482 of the Cr.P.C., for quashing of the FIR based upon compromise and there is no set formula for the purpose of quashing of the FIR and the basic parameters have been laid down by the Hon'ble Supreme Court in the aforesaid cases. The relevant portion in "***State of Madhya Pradesh Vs. Laxmi Narayan & Others (supra)***", is reproduced as under:-

"13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

- i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*
- iii) similarly, such power is not to be exercised for the*

offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the

High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

- v) *while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”*

In the present case the facts of the case suggest that a fight had taken place between two neighbours, since the land was adjoining and thereafter, the matter has been settled between the parties. The subject matter of the present case does not fall in the category of serious or heinous offence and the parties have already got their statements recorded before the learned Illaqa Magistrate by stating that the settlement was voluntary and without

any undue influence or coercion. Therefore, this Court is of the opinion that it is a fit case for quashing of the FIR based upon the compromise and falls within the parameters laid down by Hon'ble Supreme Court.

In view of the aforesaid position the present petition is allowed and the FIR No.206 dated 06.11.2019 under Sections 452, 324, 323, 34 IPC registered at Police Station Kotbhai, District Sri Muktsar Sahib and all other consequent proceedings arising therefrom are hereby quashed qua the petitioners based upon the compromise.

(JASGURPREET SINGH PURI)
JUDGE

31.05.2022
Sunil Devi

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes |