

281 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45295-2023 (O&M)
Date of Decision: 31.01.2024

MADAN LAL AND OTHERS

.....PETITIONERS

Vs.

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vipul Aggarwal, Advocate,
for the petitioners.

Mr. Kunwarbir Singh, A.A.G., Punjab.

Ms. Sunita Gupta, Advocate,
for respondents No. 2 to 5.

HARPREET KAUR JEEWAN J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 140 dated 17.07.2014, registered at Police Station Sadar, District Jalandhar, under Sections 323, 341, 294 and 354-A of the IPC and the order of sentence dated 24.01.2023 (Annexure P-3) passed by the learned Additional Chief Judicial Magistrate, Jalandhar, on the basis of a compromise dated 31.05.2023 (Annexure P-5) between the parties.

2. The present FIR was registered against the petitioners and one Amit Thapar @ Amit Kumar @ Bunty, who died during the trial on 10.11.2018. A copy of his death certificate (Annexure P-2) is part of the paper-book. The petitioners were convicted and sentenced vide judgment and order dated 24.01.2023 (Annexure P-3) and sentenced to undergo rigorous imprisonment for three years under Sections 354-B of the IPC read

with Section 149 thereof and rigorous imprisonment for three months under Section 323 of the IPC. The findings of conviction and sentence were challenged by the petitioners by filing an appeal which is pending before the learned Additional Sessions Judge, Jalandhar.

3. Counsel for the petitioner contends that now the matter has been settled between the petitioners and the complainant and a written compromise dated 31.05.2023 (Annexure P-5) has been executed between the parties. In view of the said compromise, respondents No. 2 to 5 do not want to take any action against the petitioners.

4. Learned counsel appearing on behalf of respondent No. 2 to 5 has confirmed the factum of compromise between the parties and submits that he has no objection if the judgment of conviction and order of sentence is set aside and the present FIR against the petitioners is quashed.

5. On 13.09.2023, the parties were directed to appear before the trial Court/Illaq Magistrate for recording of their statements regarding the compromise. The relevant part of the said order reads as under:-

XXXX XXXX XXXX XXXX

“Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into compromise 31.05.2023 (Annexure P-5), according to which, both the parties have agreed not to proceed further with the FIR in question. It is submitted that there are total 08 accused in the FIR, out of which one accused, namely, Amit Thapar @ Amit Kumar @ Bunty, has expired and the present petition has been filed at the instance of remaining 07 accused persons. Learned counsel for the petitioners has placed reliance

upon a judgment of this Court dated 26.09.2022, passed in CRM-M-31595-2022, titled as ‘Sukhwinder Singh and another vs. State of Punjab and another’, to contend that FIR and the judgment of conviction can be quashed on the basis of compromise, in case, the offences are compoundable.

Notice of motion.

On the asking of Court, Ms. Kanica Sachdeva, AAG, Punjab, accepts notice on behalf of respondent No. 1-State; whereas Ms. Sunita Gupta, Advocate who is present in Court accepts notice on behalf of respondents No. 2 to 5 and submits Vakalatnama, which is taken on record.

Learned counsel for the State admits that the present FIR was registered under Sections 323, 341, 294 and 354-A IPC which are compoundable, therefore, quashing of the aforesaid FIR as well as the judgment of conviction on the basis of compromise is permitted.

In view of the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise dated 31.05.2023 (Annexure P-5) on 29.09.2023 by moving an appropriate application or by presenting this order.

XXXX XXXX XXXX XXXX

6. The report dated 04.10.2023 of the Additional Chief Judicial Magistrate, Jalandhar, through the District & Sessions Judge, Jalandhar has been received. As per the said report, compromise effected between the parties is genuine and without any coercion or undue influence. The statements of all the victims and respondent No. 2-complainant have been recorded. The parties have mutually resolved their dispute and respondent

Nos. 2 to 5 do not want to take any action against the petitioners. The FIR was registered only against the present petitioners. None of the accused has ever been declared Proclaimed Offender. The petitioners are not involved in any other criminal case except the present case.

7. Learned State counsel submits that all injuries were simple in nature and he has no objection regarding the acceptance of the present petition.

8. In Sukhwinder Singh and another vs. State of Punjab and another (CRM-M-31595-2022), decided on 26.09.2022, while quashing the FIR and the proceedings under Section 482 Cr.P.C. which was registered under Section 457 and 380 of the IPC, a co-ordinate Bench of this Court, quashed the proceedings including the judgment of conviction and sentenced, charges and FIR while placing reliance on the decision of Hon'ble the Apex Court in Shakuntla Sawhney vs. Kaushalya Sawhney (1979) 3 SCR 639, it was observed that the finest hour of justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sentence of fellowship or reunion.

9. Hon'ble the Apex Court in Ramgopal vs. State of Madhya Pradesh 2021 (4) RCR (Criminal) 322, quashed the proceedings by observing that the criminal proceedings involving non-heinous offences or where the offence are per-dominantly of a private nature, can be annulled irrespective of the fact that the trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions.

10. In the present case, the allegations were that the complainant who was a taxi driver when tried to park his car after returning home, one of the petitioner requested him to remove the car and on this, altercation took place which led to a fight. None of the injuries is grievous in nature. Both the parties are resident of same Village Bambianwal, District Jalandhar. They have amicably settled their dispute and they wanted to live peacefully together. Further, keeping the proceedings on the basis of the present FIR, awarding punishment on the basis of conviction and order of sentence would not in the interest of justice, as such, in order to secure the ends of justice, the criminal proceedings including the FIR, charges, judgment of conviction and sentence are liable to be quashed.

11. Consequently, this petition is allowed and FIR No. 140 dated 17.07.2014, registered at Police Station Sadar, District Jalandhar, under Sections 323, 341, 294 and 354-A of the IPC and all the subsequent proceedings emanating therefrom, including the judgment of conviction and order of sentence dated 24.01.2023 (Annexure P-3) passed by the learned Additional Chief Judicial Magistrate, Jalandhar, are ordered to be quashed/set aside, qua the petitioners.

12. Pending miscellaneous application (s), if any, shall also stand disposed of.

January 31, 2024
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking
Whether reportable

Yes
No