

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

285

CRM-M-54059-2023

Date of decision:- 12.03.2024.

Gurdev Singh

...Petitioner

Versus

State of Punjab and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. B.S. Bairagi, Advocate
for the petitioner.

Ms Kamaldeep Kaur, Advocate
for the respondent.

Mr. J.S.Arora, DAG Punjab.

PANKAJ JAIN, J. (Oral)

1 On 13.12.2023, following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.40 dated 06.03.2017, registered for offences punishable under Sections 304-A, 279, 337 of the Indian Penal Code, 1860 at Police Station Dayalpura, District Bathinda and all subsequent proceedings arising thereto including judgment of conviction and order of sentence dated 16.11.2022 on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-3.

Notice of motion for 12.03.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Ms. Kamaldeep Kaur, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties. She undertakes to file her power of attorney on or before the next date of hearing.

In view of the above, the parties are directed to appear

before learned Appellate Court on 16.01.2024. On their doing so, the learned Appellate Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2 Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4 Whether the accused persons are involved in any other case or not?*
- 5. The Appellate Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Appellate Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

2. Pursuant therefrom report from District and Sessions Judge, Bathinda, has been received. As per the same, it has been observed as under:-

“With reference to the subject cited above, it is respectfully submitted that a case FIR No.40 dated 6.3.2017 was registered against Gurdev Singh @ Pappu son of Balveer Singh, on the statement of Sukhjinder Pal son of Jagan Nath, under Sections 304-A, 279, 337 of the Indian Penal Code, at Police Siation Dayalpura, District Bathinda. The learned lower Court passed conviction against accused Gurdev Singh @ Pappu, vide Judgment of conviction and order of sentence dated 16.11.2022. Feeling aggrieved against the said conviction, convict Gurdev Singh @ Pappu filed an appeal and the same is pending before this Court.

It is further respectfully submitted that in compliance with the orders dated 13.12.2023 passed by the Hon'ble High Court, separate statements of complainant Sukhjinder Pal, that of his son Davinder Sharma (being the legal heirs of deceased

Baljit Kaur, victim of the crime), duly identified by their counsel and also of appellant Gurdev Singh have been recorded separately and both the parties got their separate statements recorded qua compounding compromising the matter. The parties also stated that they have compromised the matter with their free will, without any pressure or coercion and in order to maintain peace between the parties. Complainant Sukhjinder Pal also stated that he has no objection in quashing the FIR, in question, registered against appellant Gurdev Singh. Complainant Sukhjinder Pal and his son Davinder Sharma further stated that except both of them, there is no other legal heir of deceased Baljit Kaur. Convicvappellant Gurdev Singh also stated that no other case, except the present one, is pending against him and he is not an accused in any other case and he has never been declared proclaimed offender in any judicial proceedings.

Thereafter, Investigating Officer of the case, namely SI Baljit Pal was summoned, who came present in the Court on 31.1.2024 and suffered his statement that he is Investigating Officer of the present FIR, registered against appellant Gurdev Singh @ Pappu and there was only one accused in the said FIR and that he was never declared proclaimed offender in this case. He further stated that deceased Baljit Kaur and Sukhjinder Pal were the victims of the case and Sukhjinder Pal was the sole complainant of the case.

SHO of the police station, in whose jurisdiction the appellant resides, was also summoned, with a direction to get in touch with the concerned quarter, to ascertain the fact that whether the appellant is accused in any other case and/or was ever declared as proclaimed offender in any case including the present FIR. In furtherance of the same, SI Baljit Singh, posted as Addl. SHO in Police Station Dayalpura came present and suffered his statement to the effect that as per record, accused Gurdev Singh Pappu is not an accused in any case except the

present FIR and he has not been declared proclaimed offender in any other or the present FIR. He further stated that he also got inquired from the office of Senior Superintendent of Police, Bathinda and as per their record, accused Gurdev Singh @ Pappu is not involved in any other FIR or case, except the present one and he has not been declared proclaimed offender in any case or the present one.

On the basis of the aforesaid statements recorded by this Court, the undersigned hereby submit the collective point wise report, as under:-

1. Number of persons arrayed as accused in the FIR :-

As per the record, only one person namely Gurdev Singh @ Pappu was arraigned as accused in the FIR, in question.

2. Whether any accused is proclaimed offender :-

From the statements of complainant Sukhjinder Pal, convict/appellant Gurdev Singh @ Pappu, SI Baljit Pal, Investigating Officer and that of SI Baljit Singh, Additional SHO of Police Station, in whose jurisdiction the appellant/convict resides, it is evident that the accused is never declared as proclaimed offender, either in the present FIR or in any other FIR.

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence :-

From the statement of accused Gurdev Singh @ Pappu as also that of complainant Sukhjinder Pal and his son Davinder Sharma, it is apparent that the compromise has been effected with the intervention of the respectable persons of the village, with their free will, without any pressure or coercion upon any of the parties and in order to maintain peace between the parties.

4. Whether the accused persons are involved in any other case or not :-

From the statement of SI Baljit Singh, Additional SHO of Police Station Dialpura as well as from the statement of

accused Gurdev Singh @ Pappu, it is evident that the accused of the present FIR is not involved in any other case, except the present one.

5. The Appellate Court is also directed to record the statement of the Investigating Officer, as to how many victims/complainants are there in the FIR:-

From the statement of SI Baljit Pal, Investigating Officer of the case, it is evident that in the present FIR, there are two victims i.e. deceased Baljit Kaur and Sukhjinder Pal, who is the sole complainant of the present FIR.

The report is submitted accordingly for kind consideration, please.”

- 3. Keeping in view that this is an offence under Section 304-A, petitioner is granted liberty to raise all pleas based upon the compromise which has been found to be genuine before the Appellate Court.
- 4. This Court is quite sanguine that the Appellate Court shall consider the same in accordance with the law.
- 5. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

12th March, 2024
spn

Whether speaking/reasoned : Yes
Whether Reportable : No