

(2014) 07 P&H CK 0807

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM-M-26817-2013 (O&M)

Mohinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 17, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320
- Penal Code, 1860 (IPC) - Section 148, 149, 323, 452

Hon'ble Judges: Naresh Kumar Sanghi, J

Bench: Single Bench

Advocate: Ashok Kumar Sama, Advocate for the Appellant; Parupkar Singh Ghuman, Addl. AG and Satbir Gill, Advocate for the Respondent

Judgement

Naresh Kumar Sanghi, J.

Prayer in this petition is for quashing of FIR No. 148, dated 20.5.2007, under Sections 148, 323 and 452 read with Section 149, IPC, registered at Police Station, Sadar, Fazilka, District Ferozepur, and all the consequential proceedings arising therefrom, on the basis of compromise.

2. Vide order dated 11.11.2013, the petitioners as well as respondent Nos. 2 to 4 were directed to appear before the learned Trial Court for getting their respective statements recorded with regard to the compromise. The said Court was also directed to send the report with regard to genuineness or otherwise of the compromise besides sending the statements to be suffered by the parties.

3. In compliance of the above, the petitioners (seven in number) as well as Angrej Singh, Meeto Bai and Kaushlya Bai (three injured) did appear before the learned Chief Judicial Magistrate, Fazilka, and got recorded their statements with regard to the compromise. The copies of the said statements have been received. The three injured persons unequivocally deposed that they had no objection if the proceedings against the petitioners arising out of the impugned FIR were quashed

on the basis of the compromise.

4. The petitioners also admitted the factum of the compromise in their joint statement suffered before the learned Court below on 12.2.2014.

5. The report received from the learned Chief Judicial Magistrate, Fazilka, reveals that the compromise effected between the private factions was genuine one.

6. Learned counsel for the petitioners submits that respondent Nos. 2 to 4 are residing in the vicinity of the petitioners and on account of a trivial dispute, the quarrel had taken place in which respondent Nos. 2 to 4 had received simple injuries. He further contends that Section 452, IPC, was deleted during investigation and, as such, the petitioners were charged for the offences punishable under Sections 148 and 323 read with Section 149, IPC, only. He further contends that due to intervention of the respectable and elderly people of the society, the private factions have sorted out all their disputes and effected a compromise (Annexure P-2). He further contends that the petitioners as well as respondent Nos. 2 to 4 did appear before the learned Court below and got recorded their respective statements with regard to the compromise and, as such, the pendency of the FIR and all the consequential proceedings emanating therefrom would be sheer abuse of the process of law. In support of his contentions, he has placed reliance on the judgments in the matters of [Gian Singh Vs. State of Punjab and Another](#), and [Kulwinder Singh and Others Vs. State of Punjab and Another](#),

7. Learned counsel for the State on instructions from ASI Jograj Singh of Police Station, Sadar, Fazilka, very fairly concedes the factum of the compromise and recording of the statements of the private factions by the learned Chief Judicial Magistrate, Fazilka, with regard to the compromise. He has no objection with regard to quashing of the impugned FIR and all the consequential proceedings arising therefrom. However, he submits that the proceedings before the learned Court below are pending since 2007 and, as such, the petitioners have consumed valuable time of the public authorities as also of the Courts, therefore, they should be burdened with heavy costs.

8. Learned counsel for respondent Nos. 2 to 4 has also toed the line of action of the learned counsel for the State and has no objection with regard to quashing of the impugned FIR and all the consequential proceedings arising therefrom.

9. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

10. On a trivial issue the quarrel had taken place in which respondent Nos. 2 to 4 had received simple injuries attracting the mischief of Section 323, IPC. The petitioners have been charged for the offences punishable under Sections 148 and 323 read with Section 149, IPC. Section 323, IPC, is compoundable as per the provision contained in Section 320, Cr.P.C. Both the private factions have sorted out

their disputes and effected a compromise. The statements of the affected parties have already been recorded. The report of the learned Chief Judicial Magistrate, Fazilka, reveals that the compromise (Annexure P-2) appears to be genuine one. Learned counsel for the State has also admitted the factum of the compromise. Continuation of the trial arising out of the impugned FIR would be sheer abuse of the process of law since chances of conviction of the petitioners are bleak.

11. Keeping in view the factum of the compromise effected between the private parties and the ratio of the judgment delivered by Hon"ble the Supreme Court in the case of Gian Singh (supra) and a 5-Judges Bench of this Court in the case of Kulwinder Singh (supra), this petition is accepted and FIR No. 148, dated 20.5.2007, under Sections 148, 323 and 452 read with Section 149, IPC, registered at Police Station, Sadar, Fazilka, District Ferozepur, and the consequential proceedings arising therefrom are hereby quashed.

12. However, I find substance in the submission of the learned counsel for the State that the proceedings are pending for the last seven years and the private factions have consumed valuable time of the public authorities as well as the Courts, therefore, they should be burdened with costs. As such, each of the petitioners is ordered to pay Rs. 2,500/- (Rs. 2,500/- x 7 = Rs. 17,500/-) as costs, to be deposited with the learned Trial Court within two months of passing of this order. In case any of the petitioners fails to comply with this order, in that eventuality, the respondent-State would be at liberty to move an application for re-calling of the present order.