

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-9170 of 2012(O&M)

Date of Decision:28.09.2012

Gurwinder Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

Present: Mr.Amar Vivek, Advocate, for the petitioners.

**Mr.Raj Preet Singh Sidhu, AAG, Punjab,
for respondent No.1-State.**

Respondent No.2 in person.

MEHINDER SINGH SULLAR, J.(oral)

Concisely, the facts and material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record is that, in the wake of complaint of complainant-Jasmer Singh son of Karam Singh, respondent No.2 (for brevity "the complainant"), initially a criminal case was registered against the petitioners-accused Gurwinder Singh and others, by means of FIR No.22 dated 07.05.2005(Annexure P-1), on accusation of having committed the offences punishable under Sections 148, 323, 324, 325, 506, 427 read with Section 149 IPC, by the police of Police Station Ghanaur, Tehsil Rajpura, District Patiala.

2. After completion of the investigation, the police submitted the challan/final police report in terms of Section 173(2) Cr.P.C. Consequently, the petitioners-accused were accordingly charge-sheeted for the commission of the pointed offences by the trial court and the case

was slated for evidence of the prosecution.

3. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their disputes, by virtue of affidavits dated 20.03.2012 and 27.03.2012 of the complainant-Jasmer Singh and petitioner-Gurwinder Singh.

4. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, on the basis of compromise, invoking the provisions of Section 482 Cr.P.C., *inter alia*, pleading that the parties are closely related to each other and are neighbours having family bonds. Now, with the intervention of brotherhood and respectables of the society, they have amicably settled their disputes. They have redressed their grievances. They do not want to pursue any kind of cases against each other. Now they intend to live peacefully in future. They do not want to indulge in further litigation of any type. The complainant has agreed to withdraw the criminal case registered against the petitioners-accused. He has no objection if the present criminal case registered against them vide FIR (Annexure P-1) is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

5. During the course of preliminary hearing, a Coordinate Bench of this Court (Rameshwar Singh Malik, J.) directed the trial Court, to record the statements of all the concerned parties with regard to

the genuineness and validity or otherwise of the compromise between them, vide order dated 29.03.2012.

6. In compliance thereof, the trial Court recorded the following statement of the complainant:-

“I have lodged an FIR No.22 dated 7.5.2005 with the police station Ghanaur against the accused namely Gurvinder Singh son of Dharam Singh, Malkiat Singh son of Munshi, Gurdev Singh son of Ranjit Singh, Dalwinder Singh son of Gurdev Singh. The parties own land adjoining to each other. The above named accused were not present at the place of occurrence. The aforementioned accused did not cause any injuries to me. I have lodged the present FIR against the accused persons under sheer mistake and under erroneous belief and circumstances. The parties are related to each other as such, they have voluntarily reached a compromise and the matter has been amicably and mutually settled. In a view of above circumstances, I do not want to proceed with the present case registered against the accused as such. I want to get the proceedings quashed against the accused. I have brought my original driving licence to ascertain my identity, photocopy of the same is Ex.C1.”

7. Sequelly, the trial Court has submitted its report bearing No.606 dated 26.04.2012, which in substance is as under:-

“Statement of the complainant, accused and Lambardar of the village have been recorded in the court regarding compromise. Complainant Jasmer Singh suffered statement in the court that due to intervention of respectables of village compromise has been arrived at between them. Complainant has further stated that the present case was registered against the accused persons under sheer mistake and under erroneous belief and circumstances. The statement of complainant has also been identified by Sh.Ashok Kumar, Advocate. Statement of accused persons also recorded

wherein they submitted in the similar lines as that of complainant. Statement of Bahadur Singh Lambardar of village Loh Simble from where the parties belong is also recorded to the effect that he is Lambardar of the village and with the intervention of the respectables of the village, the compromise has been arrived at between the parties. From the aforesaid, the compromise seems to be genuine. As such report is hereby submitted along with copies of statements of complainant and Lambardar of their village and copy of order dated 21.4.2012 for kind perusal.”

8. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by way of affidavits dated 20.03.2012 and 27.03.2012. The factum of compromise is also reiterated in the report of the trial Court.

9. Above being the position on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel for the parties, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

11. What cannot possibly be disputed here is that, the law with regard to quashing such criminal prosecution on the basis of settlement between the parties by virtue of compromise, has now been well-settled by the Hon'ble Supreme Court in cases **Shiji @ Pappu and others**

Versus Radhika and another, 2012(1) RCR(Criminal) 9, Manoj Sharma v. State & Ors. 2008(4) RCR (Criminal) 827; B.S.Joshi v. State of Haryana 2003 (2) RCR (CrI.) 888 (SC) and Full Bench of this Court in case Kulwinder Singh and others v. State of Punjab and another 2007 (3) RCR (Criminal) 1052, wherein it was ruled that the High Court has vast inherent power to quash the criminal prosecution on the basis of settlement of disputes between the parties.

12. The crux of the law laid down in the aforesaid judgments is that the power under Section 482 Cr.PC has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and everlasting congeniality in society and resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same, unless such compromise is abhorrent to lawful composition of the society or would promote savagery if the statement is fair being free from under pressure. Meaning thereby, the High Court has unlimited power to quash the criminal proceedings, relatable to such disputes, on the basis of lawful settlement within the framework and restriction described by the Hon'ble Supreme Court. The ratio of the law laid down in the aforesaid judgments "mutatis mutandis" is duly applicable to the facts of the present case and is the complete answer to the problem in hand.

13. As is evident from the record that, in the instant case, the

parties have amicably settled their disputes with the intervention of brotherhood and respectables of the village, with their free will and without any kind of pressure. The parties are related to each other and are neighbourers. The complainant has stated that the present case was registered against the accused under sheer mistake and erroneous belief and circumstances. Now there is no dispute between them. The complainant does not want to further proceed the matter. He has no objection if the criminal case registered against the petitioners-accused is quashed. The complainant has also reiterated the factum of compromise in his statement before the Magistrate. The factum and genuineness of the compromise between the parties is also reiterated by the trial Court in its indicated report. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in this respect.

14. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.22 dated 07.05.2005 (Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly acquitted of the charges framed against them, in the obtaining circumstances of the case.

September 28, 2012
seema

(MEHINDER SINGH SULLAR)
JUDGE

**CRM No.29005 of 2012 in
CRM No.M-9170 of 2012**

**Gurwinder Singh and others vs. State of Punjab and
another**

Present: Mr.S.S.Narula, Advocate,
 for the applicant.

Mr.Raj Preet Singh Sidhu, AAG, Punjab,
for respondent No.1-State.

Mr.Amar Vivek, Advocate,
for the petitioners.

After hearing the learned counsel for the parties, going through the record/reply to the application, as no ground to implead applicant-Hari Singh, as a party-respondent, is made out, therefore, the instant application is hereby dismissed as such.

September 28, 2012
seema

(MEHINDER SINGH SULLAR)
JUDGE