
(2012) 12 P&H CK 0205
In the Punjab And Haryana At Chandigarh
Case No : C.R.M. No. M-19639 of 2011

Bai Singh alias Santa Singh and Others	APPELLANT
Vs	
State of Punjab and Others	RESPONDENT

Date of Decision : 13-12-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 324, 325

Citation : (2013) 2 RCR(Criminal) 290

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Advocate : Balbir Singh Jaswal in CRM No. M-19639 of 2011 1st case and Mr. Ramesh Sharma in CRM Nos. M-31713 of 2011 and 3649 of 2012 2nd and 3rd cases, for the Appellant; Balbir Singh Jaswal, Advocate in CRM Nos. M-31713 of 2011 and 3649 of 2012 (2nd and 3rd cases) and Ms. Amarjit Kaur Khurana, Addl. A.G. Punjab for the Respondent No. 1 and Mr. Ramesh Sharma, Advocate in CRM No. M-19639 of 2011, for the Respondent

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—As identical questions of law and facts are involved, therefore, I propose to decide CRM No. M-19639 of 2011 titled as "Bai Singh & Ors. v. The State of Punjab & Ors." (for brevity "1st case"); CRM No. M-31713 of 2011 titled as "Dalbir Singh & Ors. v. The State of Punjab & Ors." (for short "2nd case") and CRM No. M-3649 of 2012 titled as "Amrik Singh v. The State of Punjab & Ors." (in short "3rd case"), arising out of same incident (occurrence), by means of this common judgment, in order to avoid the repetition. The matrix of the facts & material, culminating in the commencement, relevant for disposal of the instant petitions and emanating from the record, is that, initially, in the wake of complaint of complainant Dalbir Singh son of Darshan Singh respondent No. 2 (for brevity "the complainant in 1st case"), a criminal case was registered against petitioners-accused Bai Singh alias Santa Singh son of Tarlok Singh and others for causing injuries to complainant Dalbir Singh, Jagir Singh & Kashmir

Singh sons of Darshan Singh (respondents No. 2 to 4) (in 1st case) and petitioners (in 2nd case), by virtue of FIR No. 39 dated 18.3.2009 (Annexure P1 in 1st case), on accusation of having committed the offences punishable under Sections 148, 323, 326 and 452 read with Section 149 IPC by the police of Police Station Ajnala, District Amritsar.

2. Sequelly, the prosecution claimed that during the course of same very incident, Jarnail Singh, Bai Singh alias Santa Singh sons of Tarlok Singh and Wazir Singh son of Karnail Singh (petitioners in 1st case & respondent Nos. 2 to 4 in 3rd case) also sustained injuries at the hands of complainant party i.e. Dalbir Singh & others (petitioners in 2nd case). Consequently, a cross criminal case was also registered against them, in pursuance of statement (Annexure P1) of Jarnail Singh (complainant in 2nd case) for the commission of offences punishable under sections 148, 324 and 325 read with Section 149 IPC by the police of same Police Station Ajnala, District Amritsar in the manner depicted here-in-above.

3. During the course of investigation of both the cross cases, good sense prevailed and the parties have amicably settled their disputes, by way of compromise dated 31.3.2009 (Annexure P2) and affidavits (Annexure P3) of Jagir Singh, (Annexure P4) of Dalbir Singh and (Annexure P5) of Kashmir Singh (in 1st case) and affidavits (Annexure P3) of Jarnail Singh, (Annexure P4) of Wazir Singh and (Annexure P5) of Santa Singh @ Bai Singh (in 2nd and 3rd cases).

4. Having compromised the matter, now petitioners-accused Bai Singh alias Santa Singh & others, have preferred the present petition (CRM No. M-19639 of 2011) (1st case), to quash the impugned FIR (Annexure P1) on the basis of compromise (Annexure P2). Likewise, petitioners Dalbir Singh & others have filed separate petition (CRM No. M-31713 of 2011) (2nd case), whereas petitioner Amrik Singh has directed separate petition (CRM No. M-3649 of 2012) (3rd case), to quash the cross-cases registered against them on the basis of statement (Annexure P1) of Jarnail Singh son of Tarlok Singh (in 2nd case) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC, inter-alia pleading that with the intervention of respectables of the village, both the parties have amicably settled their disputes. They belong to the same village and also related to each other. The complainants do not want to pursue the criminal cases registered against each other. They have no objection if the respective criminal cross cases registered against each other, vide impugned FIR (Annexures P1 & P1/A) are quashed. They have also filed their affidavits (Annexures P3 to P5), reiterating the factum of compromise. It was claimed that they have redressed their grievances and have no grudge against each other. They want to live in peace in future. On the strength of aforesaid grounds, the petitioners-accused (in all the cases) sought to quash the impugned FIR and all other consequent proceedings arising thereto, in the manner described here-in-above.

5. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise (Annexure P-2) between them, by this court, vide order dated 6.11.2012.

6. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, inter-alia, concluded, by virtue of its report, bearing No. 215 dated 7.12.2012 as under:-

The petitioner of the main case Dalbir Singh son of Darshan Singh appeared and suffered a separate statement that the case was registered on his statement being complainant u/s 326/323/452/148/149 IPC bearing FIR No. 39/2009 dated 18.03.2009 against Bai Singh @ Santa Singh, Tehal Singh, Jarnail Singh, Joginder Singh @ Billa all sons of Tarlok Singh, Wazir Singh son of Karnail Singh, Lakha Singh, Karnail Singh sons of Jarnail Singh, all appeared before the Court. With the intervention of the respectables, a compromise has already been effected between the parties. He being the complainant has no further grudge with all the accused stated above. He does not want to proceed with the present case as per the compromise. They want to live peaceful life in the society by compromising the matter with each other. He has no objection if the cross version FIR registered against them and the main case be quashed. The eye witnesses/injured Kashmir Singh and Jagir Singh sons of Darshan Singh also supported his version. Similarly, the injured of the cross version Jarnail Singh son of Tarlok Singh also came in the witness box and stated that the cross version of the FIR No. 39/2009 dated 18.03.2009 was registered on his statement against accused Dalbir Singh, Jagir Singh, Kashmir Singh, Amrik Singh sons of Darshan Singh, Balwant Singh son of Waryam Singh, Sukhdev Singh @ Sukha son of Balwant Singh, Nishan Singh son of Chamel Singh. He further stated that the complainant being the injured of the cross version and the other injured/eye witnesses Bai Singh @ Santa Singh and Wazir Singh also admitted the version of complainant. The petitioner Jarnail Singh has alleged that he has no further grudge with all the accused, who are present in the Court. He does not want to proceed further against them. He also alleged that they want to live peaceful life by compromising the matter with each other and he has no objection if the FIR of the main case and the cross version be quashed. To identify both the parties, Member Panchayat of the village Hashampura namely Daljit Singh son of Piara Singh also came into the witness box and identified both the petitioners as well as accused present in the Court. Similarly, ASI/I.O. Pargat Singh has also brought the record pertaining to the present FIR and both the complainant injured and other accused present in the Court of both sides. From the abovesaid statements of the complainant/injured of main case as well as the complainant and injured of the cross version, who have been duly identified by the Investigating Officer of the case and the village Member Panchayat. Hence, as per their statements, they have effected a compromise, which seems to be genuine. The undersigned is submitting report accordingly.

7. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, through the medium of compromise (Annexure P2) & affidavits (Annexures P3 to P5) and they do not want to pursue their respective criminal cases against each other.

8. What cannot possibly be disputed here is that, the law with regard to the settlement of criminal disputes by virtue of amicable settlement between the parties is no more *res integra* and is now well settled.

9. An identical question came to be decided by the Hon''ble Apex Court in case *Gian Singh Vs. State of Punjab and Another*, Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) as under:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases. High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or

continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

10. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination in these petitions is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the Compromise or not?

11. Having regard to the contentions of the learned counsel, 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, the learned counsel are ad idem that, in view of the settlement of disputes between the parties, the instant petitions deserve to be accepted in this context.

12. As is evident from the record that, with the intervention of respectables of the village, both the parties have amicably settled their disputes. They belong to the same village and also related to each other. The complainants do not want to pursue the criminal cases registered against each other. They have no objection if the respective criminal cross cases registered against each other, vide impugned FIR (Annexures P1 & P1/A) are quashed. They have also filed their affidavits (Annexures P3 to P5), reiterating the factum of compromise. It was claimed that they have redressed their grievances and have no grudge against each other. They want to live in peace in future. 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 ratio of the law laid down and the benchmark set out by the Hon''ble Supreme Court in Gian Singh's case (supra), "mutatis mutandis" is attracted to the facts of the present cases and is the complete answer to the problem in hand. Sequelly, the impugned cross cases and all other consequent proceedings arising thereto, deserve to be quashed in the obtaining circumstances of the case. In the light of the aforesaid reasons, the instant, petitions are accepted. Consequently, the impugned FIR (Annexures P1 & P1/A) and all other subsequent proceedings arising therefrom are hereby quashed. The petitioners-accused in all the cases are accordingly discharged from the indicated criminal cross cases.