
(2019) 04 P&H CK 0148

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 49007 Of 2018

Kulwant Singh @ Baba And Ors

APPELLANT

Vs

State Of Punjab And Anr

RESPONDENT

Date of Decision : 22-04-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 427, 447, 448, 506, 511

Citation : (2019) 04 P&H CK 0148

Hon'ble Judges : Mahabir Singh Sindhu, J

Bench : Single Bench

Advocate : Sandeep Kumar, C.L. Pawar, Rakesh Sharma

Final Decision : Allowed

Judgement

Mahabir Singh Sindhu, J

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.191 dated 08.09.2013, under Sections 448, 447, 427, 506, 511 and 34 of the Indian Penal Code, registered at Police Station Salem Tabri, Ludhiana along with all consequential proceedings arising therefrom on the basis of compromise dated 06.12.2016 (Annexure P-2) entered into between the parties i.e. petitioners as well as respondent No.2.

As per the allegations in the FIR, it has been alleged that the complainant is working as colonizer. He has purchased one plot around 900 Sq.Meter, main road, near Shiv Puri Chownk, Ludhiana, Khasra No. 12/37/635/611/291, Khaka Number 361376, Hasbasat number 78, Abadi Lakhewal, Ludhiana in the name of his wife Manju Bala vide one registry of 395 Sq. meter and second Registry of 502 Sq. Meter. On this land together already walls and two rooms were constructed. On 08.09.2013 at about 11:00 a.m. when the complainant was going home he was passing through the said plot, then he saw the wall of the plot was fallen down and one Balero Car bearing Number PB-10-DT (T) 8274,

white color was parked inside. When the complainant went inside then the petitioners-accused were sitting inside with dangerous weapons to take illegal possession of the plot by keeping material therein and destroyed the wall of the plot. The petitioners-accused threatened the complainant to kill him and asked him to go from the plot.

Heard learned counsel for the parties and perused the paper book. On 05.03.2019, the following order was passed by this Court:

"CRM 7204 of 2019

This is an application for correction in the date mentioned in order dated 14.02.2019.

Crl. Misc. is allowed. In the second line of second para of the order dated 14.02.2019, the date written, be read as 20.02.2019 instead of 20.02.2018.

CRM M-49007 of 2018

Learned counsel for the petitioners seeks one more opportunity for recording of the statements of the parties in terms of the previous order.

Permitted to do so.

Let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 26.03.2019 to record their statements with reference to the compromise, if any, entered into between them.

Petitioners will file their affidavits that there is no other criminal case pending against them and also give the details of any other FIR (s), which has/have already been quashed on the basis of compromise.

Learned Illaqa Magistrate/ trial Court will record the statements of all accused, complainant/ injured and victim, if any and submit a report along with the statements to this Court before the next date of hearing containing the following information:-

(I). Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(II). Whether the compromise effected between the parties is genuine and valid?

(III). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).

(IV). Whether any other case is pending against either of the parties or not, if yes, the details thereof.

(V). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender.

(VI). whether any of the petitioner(s) is/are previous convict or not?.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

For further consideration, now to come up on 22.04.2019. Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance."

In terms of above order, the statements of the parties were recorded by learned Judicial Magistrate First Class, Ludhiana and submitted a report dated 28.03.2019. The operative part of the same reads as under:-

'.....Therefore, by considering the statements of the complainant and the accused and the compromised Ex. C1, it makes out that the parties of the present case have compromised the matter with their free will and without any pressure and influence, so if the statement of Manju Bala herself is not necessitated then this compromise between the parties appears to be genuine and valid and statements of the parties are bonafide and are not result of any pressure or coercion etc. in any manner.'

A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence and no one has been declared as proclaimed offender in this case.

On instructions from the police official who is present in the Court, learned State Counsel stated that he has no objection in case the present FIR as well as all other consequential proceedings are quashed on the basis of the compromise effected between the parties. Even before this Court also, there is no objection by either of the parties in case the present FIR is quashed.

In view of the above, this Court is fully convinced that the offences are entirely personal in nature and do not affect any public peace and tranquility, thus quashing of FIR in question along with all consequential proceedings on the basis of compromise would bring peace and harmony to secure the ends of justice. Consequently, the present petition is allowed and the aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners.