

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 1048 of 2014

1. Colonel (Retd.) Charanjeet Singh, S/o Late Major Mohinder Singh Aged about 58 years, R/o 317, Parasnath Edens, Alpha-II, Greater Noida, P.S. Greater Noida, Dist. Gautam Buddha Nagar (U.P.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through P.S. Incharge, P.S. City Kotwali, Raigarh, Dist. Raigarh, C.G.
2. Vishal Goyal, S/o. Shri Mohan Lal Goyal, Aged about 32 years, R/o. H.No. 100, Old Teh. Roorkee, P.S. & Teh. Roorkee, Dist. Haridwar, Uttarakhand

---- Respondents

And

CR.M.P. No. 1051 Of 2014

1. Vishal Goyal, S/o. Shri Mohan Lal Goyal, Aged about 32 years, R/o H.NO. 100, Old Tehsil, Roorkee, P.S. & Tah. Roorkee, Dist. Haridwar, Uttarakhand

---- Petitioner

Vs

1. State of Chhattisgarh, S/o. Through P.S. Incharge, P.S. Bhupdevpur, District Raigarh (C.G.)
2. M/s. Monnet Ispat & Energy Limited, through its Authorised representative Shri P.K.S. Baghel, S/o. Shri D.N. Singh, aged about 49 years, R/o. Mahendra Puram, Monnet Ispat & Energy Ltd. Naharpali, P.S. Bhupdevpur, Dist. Raigarh (C.G.)

.....Respondents

In (Cr.M.P. No.1048/14)

For Petitioner : Mr. Ankit Singhal, Advocate
For State/Respondent No.1 : Mr. Arvind Shukla, Panel Lawyer
For Respondent No.2 : Mr. Praveen Dhurandhar, Advocate

In (Cr.M.P. No.1048/14)

For Petitioner : Mr. Praveen Dhurandhar, Advocate
For State/Respondent No.1 : Mr. Arvind Shukla, Panel Lawyer
For Respondent No.2 : Mr. Ankit Singhal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/08/2015

1. Both the petitions are being decided together by this common order as the common question of law is involved in these cases.
2. In Cr.M.P. No.1048/2014, the petitioner Colonel (Retd.) Charanjeet Singh has prayed for quashing of the FIR No.255/2012, registered at Police Station – City Kotwali, Raigarh under Section 365, 330, 342, 323 read with Section 34 of I.P.C., which was registered on a complaint made by Vishal Goyal, who has been arrayed as respondent No.2. The other Cr.M.P. No.1051/2014, is filed by Vishal Goyal, wherein M/s. Monnet Ispat & Energy Limited, has been arrayed as respondent No.2 for quashing of FIR No.38/2012, registered at Police Station, Bhupdevpur, District Raigarh under Section 420, 120-B of I.P.C. on a complaint by personal manager of Monnet Ispat & Energy Ltd.
3. Mr. Ankit Singhal, counsel appearing on behalf of the petitioner in Cr.M.P. No.1048/2014 would submit that a compromise has been affected with the complainant, Vishal Goyal, who is arrayed as respondent No.2. It is contended that a memorandum of understanding/compromise was affected between the petitioner and the complainant, wherein it is stated that the FIR No.255/2012 dated 09.02.2012 was lodged due to

misunderstanding between the parties and in fact no incident had taken place. He referred to the memorandum of understanding/compromise, which is filed as Annexure A/2 alongwith the petition, which reads as under :-

“Where as the first party was working with M/S Monnet Ispat & Energy Limited as a Deputy Manager (Purchase) from 01.09.2008 till 08.04.2012. The first party lodged an FIR No.255 Dated 09.04.2012 U/S. 365/330/342/323/34 IPC Police Station City Kotwali, District Raigarh. Against the second party Col. Charanjeet Singh Ex. Security Incharge and others. FIR No.255 dated 09.04.2012 is only out come misunderstanding between the parties and in fact no incident took place as mentioned in the FIR.

Where as be first party lodged the above said FIR against the second party due to controversy and misunderstanding arrived between the parties and now, both the parties have mutually agreed and settled their disputes against each other amicably without any pressure, fear, undue influence, coercion etc.

Whereas both the parties have mutually agreed and settled their all disputes against each other amicably and understanding the same that there no dispute left out between the parties after signing of this MOU/Compromise, Now there is no dispute of any kind has been left out between the parties regarding the above mentioned FIR & differences arrived between the parties.

Where as the first party at his free will went to Hotel Shresta with Col. Charanjeet Singh on 08.04.2012 for

settlement of account with the Company. Col. Charanjeet Singh and two other Guards did not kidnaped and confined the first party on that day nor they did threatening and beating the first party.”

4. The said memorandum of understanding/compromise is not disputed by the respondent No.2. Perusal of the order sheet would also reflect that on 28.11.2014, a direction was given to the Additional Registrar (Judicial) to record statements of the parties, consequently, the statement of the complainant, Vishal Goyal was recorded, before the Additional Registrar (Judicial), wherein he has stated that on his report dated 09.04.2012, a crime was registered under Crime No.255/2012 U/s.365, 330, 342 and 323 read with Section 34 of I.P.C.. He further made a statement that without any pressure or undue influence, the compromise has been affected. Consequently, a prayer is made that the proceeding in Crime No.255/2012 under Section 365, 330, 342 & 323 read with Section 34 of I.P.C. be canceled.
5. Likewise in Cr.M.P. No.1051/2014, filed by Vishal Goyal, who is the complainant in the Crime No.255/2012 has also filed a petition and has stated that on a complaint made by the respondent/company, M/s. Monnet Ispat & Energy Limited a crime was registered being No.38/2012 under Section 420 & 120-B of the I.P.C.. In the said petition Cr.M.P. No.1051/2014, the memorandum of understanding/compromise is also placed on record, which reads as under :-

“Where as the Second party was working with the first party M/s. Monnet Ispat & Energy Limited as Deputy Manager (Purchase) from 01.09.2008 till 08.04.2012. The first party lodged an FIR No.38 dated 28-04-2012 U/S 120B/420 IPC Police Station Bhupdevpur Teh. Kharsia, District Raigarh against the second party Vishal Goyal & Others.

Whereas the first party lodged the above said FIR against the second party due to controversy and misunderstanding arrived between the parties.

Whereas, both the parties have mutually agreed and settled their disputes against each other amicably without any pressure, fear, undue influence, coercion etc.

Where as both the parties have mutually agreed and settled their all disputes against each other amicably and understanding the same that there is no dispute left out between party after signing of this MOU/ Compromise, Now there is no dispute of any kind has been left between the parties regarding the above mentioned FIR & differences arrived between the parties.

Whereas the first party agreed & confirm to withdraw the case against second party or to co-operate and to settle the matter before the concerned Police Station/Court in respect of the said FIR.

Whereas the second party agreed to pay a an amount Rs.2 lacs to the first party for full and final settlement of account with the second party in respect to afore said FIR through two cheques vide cheque No.212299 Dated 01.10.2014 & one post dated cheque bearing cheque No.212300 Dated

20.11.2014 for Rs. One lac each. Drawn at Axis Bank, Roorkee.”

6. In the said Cr.M.P. No.1051/2014, this Court vide order dated 28.11.2014 directed to record the statement of the parties to be recorded by the Additional Registrar (Judicial). Pursuant there to on behalf of the respondent No.2, one P.K.S. Baghel was examined and had stated that accused, Vishal Goyal in such case was working as Purchase Manager in M/s. Monnet Ispat & Energy Limited and the company has decided to compound the offence thereby the compromise was affected. The said statement is also on record.
7. Therefore, considering the facts in both the petitions, it shows that initially on complaint made by Vishal Goyal, crime was registered bearing No.255/2012 against Colonel (Retd.) Charanjeet Singh, who was security in-charge in M/s. Monnet Ispat & Eneregy Limited and subsequently a counter FIR was also made on behalf of the M/s. Monnet Ispat & Energy Limited on 28.04.2012. This is admitted fact that Vishal Goyal was earlier employee and was working in capacity of Purchase Manager in M/s. Monnet Ispat & Energy Limited. This is also not in dispute Colonel (Retd.) Charanjeet Singh was the security in-charge of M/s. Monnet Ispat & Energy Limited, therefore, it can be inferred from the compromise petition which is filed in both the cases that the parties have entered into compromise and has also entered into reciprocal agreement for compounding of offence against

each other and prayed to withdraw the FIR and the allegations against each other. Admittedly on the FIR, no charge sheet has been filed against both the complainant though the complaint was of year 2012.

8. Reading the compromise petition and the statement of Vishal Goyal, he has stated no offence was committed of any nature on 28.04.2012. Likewise compromise petition filed in case of Vishal Goyal, the company has also stated that a compromise has been affected. The Hon'ble Supreme Court in case law reported in **(2014) 6 SCC 466** in case of **Narinder Singh and Others Vs. State of Punjab and Another** have been laid down certain guidelines, when the offence is not compoundable, whether the High Court can exercise the power under Section 482 of Cr.P.C. quashing the proceeding.
9. In Cr.M.P. No.1048/2014, filed by Colonel (Retd.) Charanjeet Singh, the FIR was under Section 365, 330, 342, 323 read with Section 34 of I.P.C.. Section 365 and 330 of I.P.C. are not compoundable, whereas, the petition Cr.M.P. No.1051/2015, filed by Vishal Goyal to quash the FIR No. 38/2012, which is under Section 420, 120-B of I.P.C. Section 420 is compoundable offence.
10. Reading of the compromise petition and statement would reflect that dispute arose out of monetary transaction between the parties as an employer and employee. The complainant, Vishal

Goyal being the employee and M/s. Monnet Ispat & Energy Limited being the employer. Likewise the compromise petition preferred by the Vishal Goyal also reflect the same thing. Reading of the compromise petition and statement would show that FIR registered has overwhelmingly and predominantly reflects the dispute of civil character, and they have arisen out of commercial transactions out of service dispute. It would be significant to note that the statement of complainant in both the cases were recorded before the Additional Registrar (Judicial), wherein also, the complainant have stated that they have compromised the matter and do not want to pursue further in the case. The charge sheet has not been filed till date though the accident is of the year 2012.

11. Reading the statement of the complainant in both the cases as also the compromise petition, it would lead to form an opinion that even if the criminal cases are filed and allowed to continue, the chances of the conviction is remote and bleak. Both the parties have stated that without any fear, the offences are being compounded based on complete settlement between the parties. The tenure of the settlement also shows that the parties shall settle in harmony if the compromise are accepted. Therefore, in the facts of the case, if the charge sheet is allowed to be filed and criminal case are allowed to continue when the complainants themselves have not supported the prosecution cases, it certainly would result in abuse of process of law. Therefore, by application

of principle laid down by th Hon'ble Supreme Court in case of ***Yogendra Yadav & Another Vs. State of Jharkhand & Another***, reported in ***(2014) 9 SCC 653***, which reiterated the principle laid down in case of ***Gian Singh v. State of Punjab***, reported in ***(2012) 10 SCC 303***, in the opinion of this Court continuing the FIR would be in exercise in futility and despite the fact that few of the offences are not compoundable, I am of the opinion in the given facts of the case since the dispute between the parties have been put to an end, the FIR needs to be quashed.

12. In view of the forgoing discussion, the petitions are allowed and the F.I.R. No.255/2012, under Section 365, 330, 342, 323 read with Section 34 of I.P.C. registered at Police Station City Kotwali, Raigarh and F.I.R. No.38/2012, under Section 420, 120-B of I.P.C. registered at Police Station Bhupdevpur, Raigarh, District Raigarh is quashed.

Sd/-
(Goutam Bhaduri)
Judge