

238-A

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.16624 of 2014
Date of Decision: 18.05.2015**

Prithi Chand Sharma

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R. S. Malhotra, Advocate
for the petitioner.

Mr. Arshdeep S. Kler, DAG, Punjab

Ms. Surinder Kaur, Advocate
for respondent No.2.

1. ***Whether Reporters of local papers may be allowed to see the judgment ?***
2. ***To be referred to the Reporters or not ?***
3. ***Whether the judgment should be reported in the Digest?***

RAJ MOHAN SINGH, J. (Oral)

Prayer in this petition is for quashing of FIR Annexure-P-1 bearing No.249 dated 28.09.2012 registered under Sections 419/420/467/468/471/120-B IPC, Police Station City Rajpura, District Patiala, on the basis of compromise.

This Court, on 04.12.2014, passed the following order:-

“Through the present petition, the petitioner has prayed for quashing of FIR No. 249 dated 28.9.2012 for offence under Sections 419, 420, 467, 468, 471, 120-B of the Indian Penal

Code, registered at Police Station, City Rajpura, District, Patiala on the basis of compromise (Annexure P-2).

Counsel for the petitioner states that Pirthi Chand Sharma has not been declared as a proclaimed offender and he is ready to come to India for appearance in the proceedings and make statement.

Notice of motion for 16.3.2015.

Parties are directed to appear before the trial Court/Ilalaqa Magistrate on 22.1.2015 for recording their statements with regard to compromise/settlement.

The trial Court/Ilalaqa Magistrate is directed to submit a report on or before the next date of hearing containing the following information:-

(1) number of persons arrayed as accused

(2) whether any accused is P.O.

(3) Whether the compromise is genuine, voluntary and without any coercion or undue influence."

In pursuance to the aforesaid order, both the parties appeared before the Sub Divisional Judicial Magistrate, Rajpura and got their statements recorded in which they have fully endorsed the factum of compromise and stated that the compromise in question is voluntarily executed and is free from all coercion and pressure of any kind.

Sub Divisional Judicial Magistrate, Rajpura, vide his

report dated 04.02.2015, also endorsed the factum of compromise and opined that the compromise in question is genuine, voluntary and is the outcome of volition and free will of the parties.

This Court is of the opinion that in view of compromise between the parties, chances of conviction of the accused are remote and there is minimal chance of the witnesses coming forward to depose in support of prosecution version. In view of remote chances of conviction, it would be appropriate to exercise discretionary power of this Court under Section 482 Cr.P.C. to put an end to the controversy for all times to come. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when possibility of conviction is remote and bleak, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial.

The State on notice, however, object to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, this Court is of the opinion that it would be in

fitness of things to quash the proceedings on the basis of compromise.

At one point of time, process was issued against Prithi Chand Sharma in terms of Section 82 Cr.P.C but subsequently file was taken up by the Magistrate in view of order passed in **Criminal Miscellaneous No.33428 of 2013 in Nirmal Singh and others Vs. State of Punjab and others** for recording statements of the parties. Therefore, no order for declaring Prithi Chand Sharma as proclaimed offender was passed and said Prithi Chand Sharma appeared before the Magistrate on 02.02.2015 and that is how the report submitted by Sub Divisional Judicial Magistrate, Rajpura has been explained.

The petition has been filed through General Power of Attorney-Dev Raj, however in pursuance to order passed by this Court Prithi Chand Sharma has himself appeared before the Magistrate and got recorded his statement in the factum of compromise.

Resultantly, FIR Annexure-P-1 bearing No.249 dated 28.09.2012 registered under Sections 419/420/467/468/471/120-B IPC, Police Station City Rajpura, District Patiala, and all the subsequent proceedings arising therefrom, are quashed.

May 18, 2015
prince

(RAJ MOHAN SINGH)
JUDGE