

THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-19388 of 2014

Decided on : 28.04.2015

Prof.Promila Chari (Retd.Doctor) and others

... Petitioners

Versus

State of U.T. Chandigarh Administration Sector 17, Chandigarh and another

... Respondents

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr.Deepanjay Sharma, Advocate
for the petitioners.
Mr.A.S.Gill, Asitt.PP. for Chandigarh.

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

Hari Pal Verma, J. (Oral)

Prayer in the present petition is for quashing of FIR No.53, dated 17.03.2006, under Section 304-A, IPC registered against the petitioners at Police Station Sector 11, Chandigarh (Annexure P/3) on the basis of compromise dated 25.07.2013 (Annexure P/5) alongwith consequential proceedings arising therefrom.

On 30.05.2014, this Court has passed the following order:-

“Notice of motion for 26.9.2014.

This is a petition for quashing of FIR on the basis of compromise.

Parties are directed to appear before the learned trial Court/Illaqa Magistrate on 10.6.2014. The learned trial Court/Illaqa Magistrate shall record the statement of all the effected parties and shall report whether any volunteer compromise has been arrived at between the parties. The report of the trial Court/Illaqa Magistrate, in this regard be called for the date fixed.”

In compliance of the above order passed by this Court, the

Judicial Magistrate, 1st Class, Chandigarh, has submitted a report dated 12.06.2014 vide which it is mentioned that parties have appeared before the trial Court and gave their statements without any pressure and with their free will in respect of compromise effected between them.

Learned counsel for the petitioners relies upon 2009(3) RCR (Criminal) 258 titled as "Anil Kumar Vs. State of Punjab and another" wherein a case registered under Section 204-A and 279 IPC, the FIR was quashed by this Court in exercise of powers under Section 482 Cr.P.C. and the Court has observed as under:-

"5. In view of the compromise arrived at between the parties, as the trial is likely to result into acquittal, continuance of further proceedings against the present petitioner would be an abuse of process of law. Moreover, while discussing the scope of quashing proceedings on the basis of compromise by this Court in exercise of powers under Section 482 Criminal Procedure Code even in non-compoundable offences, the larger Bench of this Court in Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (CrI.) 1052 (P&H) has held that the Court has wide powers to quash the proceedings even in in-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code in order to prevent the abuse of law and to secure the ends of justice. This view has further been supported by Hon'ble the Apex Court in Khurshid and another v. State of U.P. and another, 2007(4) RCR (CrI.) 495 : 2007(5) RAJ 342 (SC), and permission was granted to compound the offence under Section 325 Criminal Produce Code."

Reliance has also been placed on 2004 (2) RCR (Criminal) 443 titled as "Bhupinder Kaur Vs. State of Punjab and another", whereby FIR under Section 304-A, IPC was quashed on the basis of compromise effected between the parties. Paragraph 10 of the judgment reads as under:-

"10 In the present case, it is clear that now the complainant has given an affidavit that due to some

mis-understanding he had lodged the FIR, and now he was satisfied that the petitioner was not responsible for the death of his wife. If the parties have terminated their disputes amicably by mutual agreement in spite of fighting it in the Court, it is always in the interest of justice to quash the FIR in question. In view of the affidavit filed by the complainant in the instant case, the chance of conviction of the petitioner is bleak. Therefore, continuation of the proceedings in the instant case will be an abuse of the process of the Court, particularly when there is no material on the record which indicates that the compromise arrived at between the parties is not bona fide.”

Learned counsel for the petitioners submits that the evidence has not yet been started in the case in hand. This fact has not been controverted by the learned State counsel.

Learned State counsel has also admitted the factum of compromise effected between the parties. In the light of statements of the parties and the report dated 12.06.2014 of Judicial Magistrate, 1st Class, Chandigarh, learned State counsel submits that he has no objection if the impugned FIR is quashed.

Heard.

The petitioners have been booked for having committed the offence punishable under Section 304-A, IPC. They have now amicably effected the compromise with the complainant. The learned Judicial Magistrate, 1st Class, Chandigarh recorded the statements of the parties with regard to compromise and the report has also been received in this regard. Therefore, continuation of the trial arising out of the impugned FIR would be a sheer abuse of the process of law because chances of conviction are bleak.

Keeping in view the factum of the compromise effected between the private parties and the law laid down by Full Bench of this

Court in the case of Kulwinder Singh and others Vs. State of Punjab and another, 2007 (3) RCR (Criminal), 1052, (P&H), and continuation of the trial arising out of the impugned FIR would be a sheer abuse of the process of law because chances of conviction are bleak, this petition is accepted and FIR No.53, dated 17.03.2006, under Section 304-A, IPC registered against the petitioners at Police Station Sector 11, Chandigarh (Annexure P/3) along with consequential proceedings arising therefrom, are quashed.

Petition is accordingly allowed.

[Hari Pal Verma]
Judge

28.04.2015
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