

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

CRM-M-24864-2015

Date of decision: December 02, 2015

Satnam Dilbagh Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. K.S. Hissowal, Advocate for the petitioner.
Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J.

In this petition, prayer is for quashing of FIR No.17 dated 14.02.2012, under sections 332, 353, 186, 506 & 201 IPC and 3/4 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 62-A of Information Technology Act and 127/134 of Representation of People Act, 1951, registered at Police Station Jaito, District Faridkot, on the basis of compromise.

Learned counsel for the petitioner has relied upon judgment reported as *Chander Mohan alias Bunti vs. State of Haryana and Ors., 2011 (5) RCR (Criminal) 233* in support of his contentions.

According to learned State counsel, FIR was lodged on the statement of an IAS Officer, where after investigation ensued.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears that at the time of issuing notice of motion, a

coordinate bench had directed the parties to appear before the trial court to record their statements. A report has been received from the trial court that a compromise has been effected between the parties. Allegation against the petitioner is of assault and use of criminal force to deter a public servant from discharge of his duty. FIR was lodged by Virender Kumar Sharma, an IAS Officer, who was posted as District Election Officer, Faridkot. He alleged that Satnam Singh (petitioner herein) was hired for videography during elections. His work was found unsatisfactory. On 23.01.2012 when EVMs had to be prepared, he did not turn up for videography. At times he had also tampered with footage and video quality was very poor. As a result, a show cause notice was issued to him and payment was stopped. Instead of replying to the show cause notice, Satnam Singh tried to intimidate the staff of District Election Officer and threatened them from his mobile No.9417102111. He pressurised the staff of the District Election Officer for sanction of videography bills, failing which fake complaints would be made against the IAS Officer and his staff. It was further alleged that petitioner did not hold a good reputation in the area and had also used similar pressure tactics to get his bills cleared after election to Lok Sabha in the year 2009. In the FIR complainant Virender Kumar Sharma expressed surprise how such a person had been engaged for important engagement of videography during elections. On the basis of complaint lodged by him, FIR was registered under sections 332, 353, 186, 506 & 201 IPC and 3/4 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 62-A of Information Technology Act and 127/134 of

Representation of People Act, 1951 and investigation ensued. In the present petition, complainant Virender Kumar Sharma has submitted an affidavit to the effect that a compromise had been effected in the matter. He was satisfied that there was no need to further prosecute the case. The officer also appeared before Additional Sessions Judge, Faridkot and made a statement, which is in following terms:-

“That the compromise has been effected between Kaur Singh Steno, Baj Singh clerk and Labh Singh peon of SDM office Jaitu and accused. I have seen the compromise deed which is Ex.CX. The said compromise has been effected between the parties without any threat, pressure or coercion and same is entered with their own freewill. I have also seen the photo copy of the my duly sworn affidavit Ex.CZ in this regard and I have also no objection regarding the said compromise effected between the parties as the same is betterment for both the parties.

It is inexplicable how the officer, who lodged the FIR containing serious allegations, filed an affidavit regarding compromise and made a statement in above terms. Allegations in the FIR are of assault and use of criminal force to deter a public servant from discharge of his duty and also using abusive language against a person belonging to a particular caste. Investigating agency found that on 9.2.2012, petitioner had reached the office of S.D.M. Jaitu and hurled abuses at him and his staff. It, thus, gave a call on his mobile and asked him to appear before the investigating officer. However, petitioner refused to cooperate. A notice was issued to him thereafter. Statement of Piara Singh Chowkidar was recorded and it was found that there was substance in the allegations.

Apart from offences under sections 332, 353, 186 & 506 IPC, he was found to have committed offences under the Special Acts, such as Information and Technology Act, Representation of People Act and Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Considering the allegation that petitioner made videography film of poor quality and did not turn up on 23.01.2012 when EVMs had to be prepared, I find no ground to quash the FIR. Petitioner is stated to have almost subverted election process. He threatened the election staff and used abusive language. Such offences are not in the nature of a private dispute which can be quashed on the basis of compromise. It is surprising that the Returning Officer submitted an affidavit in support of the petitioner and accepted the compromise. It is inexplicable how the officer was competent to amicably settle the matter with the petitioner, despite serious allegations relating to deterring a public servant in official discharge of his duty and hurling abuses at election staff during the election. Needless to observe that after lodging the FIR under sections 332, 353, 186, 506 & 201 IPC and the Special Acts, the officer had lost the competence to compromise the matter. Offence of this nature are to be prosecuted by the State and not by the complainant. At the relevant time, complainant who is an IAS Officer, was posted as a Returning Officer and levelled serious allegations against the petitioner of subverting the election process. His entering into compromise with the petitioner raises serious doubts about his conduct. The judgment in *Chander Mohan's case (supra)* is not relevant to the facts of the present

case.

Under the circumstances, the plea for quashing of FIR and consequential proceedings is rejected and the petition is hereby dismissed. It is directed that Chief Secretary, Government of Punjab would examine whether there was any authorisation in favour of respondent No.2 to file an affidavit on behalf of the State with regard to compromise with the accused; whether he sought permission of the competent authority before making a statement before the trial court accepting the compromise. In the absence thereof whether appropriate departmental action needs to be initiated against respondent No.2. A report in this regard be submitted within one month from today.

Registry to forward a copy of this order to the Chief Secretary, Government of Punjab.

(RAJAN GUPTA)
JUDGE

December 02, 2015
'Rajpal'

Whether to be referred to reporter? Yes / No