

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Criminal Misc. No.M-3179 of 2014
Date of Decision: 19th January, 2015

Joginder Masih @ Joginder Gill

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: Hon'ble Mrs. Justice Daya Chaudhary

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

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. T.N. Sarup, Addl. A.G., Punjab.

Mr. Vishal Munjal, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.(Oral)

The present petition under Section 482 Cr.P.C. has been filed on behalf of petitioner, namely, Joginder Masih @ Joginder Gill for quashing of FIR No. 59 dated 20.09.2011, registered under Section 420 IPC, at Police Station Tiber, District Gurdaspur, Punjab, on the basis of compromise arrived at between the parties.

The FIR was registered on the basis of statement made by complainant-Mohinder Singh, the father of respondent No.2 alleging that the petitioner took an amount of ₹4,70,000/- for sending respondent No.2 abroad (Greece). It was also mentioned that instead of sending him to Greece, respondent No.2 was sent to

Jakarta.

Learned counsel for the petitioners submits that the dispute between the parties has been settled by way of compromise. He further submits that the complainant expired during the pendency of the proceedings and thereafter, the statement of son of the complainant was recorded and he has stated that he has no objection in quashing of FIR.

Learned counsel for respondent No.2 has also affirmed the factum of compromise.

Notice of motion was issued on 30.01.2014. Vide order dated 17.10.2014, the parties were directed to appear before the Chief Judicial Magistrate, Gurdaspur on 03.11.2014 for recording of their statements with regard to compromise. The Chief Judicial Magistrate, Gurdaspur was also directed to send a report as to whether the compromise arrived at between the parties is genuine and without any pressure from either side.

In response to the aforesaid directions, the parties have appeared before the Chief Judicial Magistrate, Gurdaspur and accordingly their statements were recorded. A report has been sent by the Chief Judicial Magistrate, Gurdaspur, wherein, the factum of compromise has been affirmed. Parties to the dispute have specifically stated that the compromise has been arrived at between them and now they do not want to proceed further with the proceedings. It has also been mentioned therein that the compromise is as per their free will and without any pressure from either side. It has also been mentioned in the report that no P.O.

proceedings are pending against the parties.

After hearing learned counsel for the parties and on perusal of the statements recorded by the Chief Judicial Magistrate, Gurdaspur it is clear that the dispute between the parties has been settled.

Since the dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of the FIR on the basis of compromise, the continuation of the proceedings would be an exercise in futility which will not only be the wastage of valuable time of the Court but it would also not be in the interest of both the parties. This Court has power to quash the proceedings on the basis of compromise.

A larger Bench of this Court in *Kulwinder Singh vs State of Punjab 2007(3) RCR Criminal 1052* has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties. The observations of this Court are reproduced as under :-

“ Criminal Procedure Code, Section 320(9) – Criminal Procedure Code, Section 482 – Compounding of offences which are non-compoundable under Section 320(9) Cr.P.C. - Offence non-compoundable, but parties entering into compromise-High Court has power under Section 482 Cr.P.C allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any court or to otherwise secure the ends of justice – This power of quashing is not confined to matrimonial disputes alone.”

In the present case also, the parties have compromised their dispute and the complainant has no objection in quashing of the FIR.

In view of the facts as mentioned above, the present petition is allowed and the impugned criminal proceedings arising out of FIR No. 59 dated 20.09.2011, registered under Section 420 IPC, at Police Station Tiber, District Gurdaspur, Punjab, as well as all subsequent proceedings arising therefrom qua Joginder Masih @ Joginder Gill are quashed.

19.01.2015
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(DAYA CHAUDHARY)
JUDGE