

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.37991 of 2013 (O&M)
Date of decision: July 28, 2015.

Dinesh Gupta

... **Petitioner**

v.

State of Punjab & another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Shri Vikram Anand, Advocate, for the petitioner.
Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1.
Shri KBS Mann, Advocate for respondent No.2.

Darshan Singh, J. (Oral):

In deference to the order dated 23.4.2015, learned Counsel for respondent No.2 – complainant/Society has produced a resolution passed by the said Society whereby Shri Rashminder Bir Singh, complainant/lodger of the impugned FIR, who happens to be the President of the Society has been duly authorized by the Society to pursue the litigation on its behalf.

2. The present petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) for seeking quashing of FIR No. 421 dated 20.9.2012, registered under Sections 380, 420, 467, 468, 471 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Civil Lines, Amritsar City (Annexure P-1) and all the subsequent proceedings on the basis of the compromise deed dated 20.8.2013 (Annexure P2).

3. Vide order dated 13.2.2015, a Coordinate Bench of this Court has directed the parties to get their statements recorded before the trial court. The learned trial court was also directed to send its report with regard to the validity or otherwise of the compromise after recording the statements of the concerned parties.

4. In compliance of the aforesaid order, report has been received from the learned Chief Judicial Magistrate, Amritsar through the learned District & Sessions Judge, Amritsar along with the copies of the statements of the parties. The operative part of the report of the learned Judicial Magistrate is reproduced as under:

“... the complainant Rashminderbir Singh s/o S. Balbir Singh r/o B-36, Ranjit Avenue, Amritsar, who has got registered captioned FIR against the petitioner namely Dinesh Gupta s/o Ashok Kumar r/o H.No.9/1222, Gali No.1, Harkrishan Nagar, Kaleghanpur Road, Amritsar (New address) 36-37, Gali No.7, Pawan Nagar, Batala Road, Amritsar (old address) has come present and stated that the entire matter has been settled with the petitioner and he has no objection if the said FIR against the above said petitioner be quashed. The aforesaid petitioner has also come present on 25.03.2015 and stated that the dispute between them has been compromised.

From the statements of the parties it transpires that parties have willfully settled their differences and reached at bonafide compromise without any pressure and the same seems to be genuine. It is further respectfully submitted that as per the statement of ASI Ranjit Singh, No.1354, posted at PS Economic Wing, Amritsar City, there is only accused in the said FIR, namely Dinesh Gupta, who has never been declared proclaimed offender in the said case, by any of the court till date, as per record.”

5. Learned counsel for the petitioner contended that the parties have amicably resolved the dispute and the continuation of the proceedings will be an abuse of the process of the Court. The compromise, between the parties voluntarily and with their free will, should be given due weightage and the present proceedings should be quashed. To support his contentions, he relied upon the judgments rendered by the Hon'ble Apex Court in ***Gian Singh v. State of Punjab & Another 2012(4) R.C.R. (Criminal) 543*** and ***Shiji alias Pappu & Others v. Radhika & Another 2012(1) R.C.R. (Criminal)9 (SC)*** and also by Full Bench of this Court in ***Kulwinder Singh & Others v. State of Punjab & Another 2007(3) R.C.R. (Criminal)1052***.

6. The factum regarding compromise between the parties has also not been disputed at bar by the learned State counsel. Learned counsel for respondent No.2 has also fairly conceded that in view of the compromise effected between the parties, the complainant/victim has no objection if the impugned FIR and the consequential proceedings are quashed.

7. As per the prosecution allegations, the accused-petitioner, who was engaged with the respondent-Society as a Director, is alleged to have misappropriated the fee used to be charged by him from the students, thereby causing unlawful loss to the Society and unlawfully enriching himself. Besides this, the accused-petitioner is alleged to have removed/stolen four cheque leaves belonging to the Society which were entrusted to him, and after forging the signatures of the President of the Society, withdrew an amount of Rs.48,000/- from the accounts of the Society. As per the further allegations, another attempt made by the petitioner to withdraw an amount of Rs.1,63,000/- from the accounts of the

Society could not fructify due to insufficiency of funds in their accounts.

8. From the statements of the complainant as well as of the petitioner recorded by the learned Judicial Magistrate and her report, it comes out that both the parties have voluntarily and with their free consent without any inducement, threat or promise, sorted out their dispute and have effected compromise. The photocopy of the compromise deed has already been placed on record as Annexure P2.

9. Taking into consideration these facts, this Court is of the opinion that the ultimate chances of conviction of the petitioner are bleak. Therefore, the pendency of FIR and continuation of the proceedings would be a sheer abuse of the process of law.

10. Thus, in view of the factum of the compromise and the law laid down by the Hon'ble Apex Court and also the Full Bench of this Court in the cases referred to above, this petition is hereby allowed. FIR No. 421 dated 20.9.2012, registered under Sections 380, 420, 467, 468, 471 IPC at Police Station Civil Lines, Amritsar City (Annexure P-1) and all the consequent proceedings arising therefrom are hereby quashed. If the case has already been decided by the trial Court, then this order will be of no effect.

July 28, 2015.
kadyan

[Darshan Singh]
Judge