

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 11.09.2015

1. CRM-M-36182-2014

Jagdish Raj Sharma

... Petitioner

Vs.

State of Punjab and anr.

... Respondents

2. CRM-M-37172-2014

Mohan Lal

... Petitioner

Vs.

State of Punjab and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner.

Ms. Manpreet Dhaliwal, AAG, Punjab.

Mr. Manish Dadwal, Advocate
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Both these identical petitions filed by the accused, under Section

482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeking quashing of same FIR No.140 dated 09.11.2013 under Sections 323, 354, 34 of the Indian Penal Code ('IPC' for short) and Section 3, 11 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC&ST Act' for short), registered at Police Station Mukerian, District Hoshiarpur (Annexure P-1) and the consequential criminal proceedings arising therefrom, are being decided together vide this common order.

Initially, both these petitions were filed for quashing of the same impugned FIR on the basis of compromise dated 20.09.2014 (Annexure P-2), which was duly signed by respondent No.2-complainant.

Notice of motion was issued vide order dated 31.10.2014. Thereafter, in the presence of learned counsel for all the parties, petitioner as well as respondent No.2-complainant were directed to appear before the learned trial Court on 21.03.2015 for getting their statements recorded, so as to enable the learned trial Court to record its satisfaction on the genuineness of compromise and thereafter, for sending its report to this Court before the next date of hearing. However, respondent No.2-complainant did not appear before the learned trial Court. To this effect, the report dated 03.06.2015 from the learned Additional Sessions Judge, Hoshiarpur has been received. It is also pertinent to note here that when the case was taken up for hearing on 07.07.2015, parties were granted another opportunity to appear before the learned trial Court to make their respective statements, but respondent No.2-complainant again failed to appear before the learned trial Court.

Thereafter, the case came up for hearing on 17.08.2015 and the following order was passed by this Court: -

“Learned counsel for the petitioner submits that Annexure P-2 was a genuine compromise and acting upon the terms and conditions thereof, petitioner withdrew his complaint, which was pending against respondent no.2 (complainant in the present case). He further submits that had the compromise not been genuine between the parties, there are no occasion for the petitioner to withdraw the complaint. However, when the turn of the complainant-respondent came, she tried to wriggle out from the genuine compromise Annexure P-2, while making her statement before the learned trial court in compliance of the order dated 9.2.2015 passed by this court.

Faced with the above, learned counsel for respondent no.2 seeks time to get instructions and also to file reply, if any.

On his request, adjourned to 11.9.2015.

A photostat copy of this order be placed on the connected file.”

Separate affidavits dated 11.09.2015 on behalf of respondent No.2-complainant in each of these two cases, filed in the Court today, are taken on record and copies thereof have been supplied to learned counsel for the petitioner, in both cases. Separate replies have been filed on behalf of the respondent-State.

Learned counsel for the petitioner, in both cases, submits that as per the terms of an amicable settlement arrived at between the parties, by way of compromise (Annexure P-2), as may as three matters were settled. Since the compromise was genuine and all the parties thereto signed it without any

kind of pressure from anybody, petitioners withdrew their complaints and as such two matters were disposed of, by the learned Courts of competent jurisdictions, vide judgment dated 27.10.2014 passed by learned Sub Divisional Judicial Magistrate, Mukerian and the judgment dated 18.10.2014 passed by learned Additional Sessions Judge, Hoshiarpur. Copies of these two judgments were placed by learned counsel for the petitioner before the Court, during the course of hearing. Learned counsel for the petitioner further submits that the complainant was a convict and clever person who has been trying to blackmail the petitioners, by resorting to misuse of process of law. Once the complainant had arrived at an amicable settlement by way of compromise (Annexure P-2), she was bound by the terms and conditions thereof. However, complainant had a second thought and turned dishonest. He concluded by submitting that continuation of the criminal proceedings arising out of the impugned FIR would be nothing but misuse of process of Court. He prays for quashing the impugned FIR and the consequential criminal proceedings, by allowing the both these petitions.

On the other hand, learned counsel for the complainant-respondent No.2 contended that compromise was not a genuine one. Complainant was forced to sign the compromise. She never intended to enter into a compromise with the petitioner. Complainant was not party in the other two matters. He further submits that since the cognizable offences have been clearly made out against the petitioner, the impugned FIR is not liable to be quashed. He prays for dismissal of both the petitions.

Similarly, while endorsing the arguments raised by learned counsel for the complainant-respondent No.2, learned counsel for the State

submits that since the compromise between the parties has not been accepted by the complainant-respondent No.2, both these petitions are liable to be dismissed.

After hearing learned counsel for the parties, going through the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the peculiar facts and circumstances of the case, noticed hereinabove, both these petitions deserve to be allowed, for the following more than one reasons.

Compromise between the parties by way of (Annexure P-2) came to be recorded on 20.09.2014. It is not in dispute that complainant-respondent No.2 is signatory to the compromise, alongwith more than 20 other respectables of the village. Further, complainant never approached any authority, including the police authorities to lodge her protest that she was forced to sign the compromise (Annexure P-2). In this regard, when a pointed question was put to learned counsel for the complainant that if she was forced to put her signatures on the compromise (Annexure P-2), why she did not complain to the police authorities in this regard immediately thereafter, he had no answer and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that although the compromise (Annexure P-2) was a voluntarily and genuine one, yet the complainant is now trying to back out from the same, for the undisclosed reasons best known to her.

Order dated 15.07.2014 passed by this Court in CRM-M No.14398 of 2014, granting the concession of interim protection to petitioner Jagdish Raj Sharma, would show that the allegations levelled by the complainant-respondent No.2 for the offence under Section 354 IPC were

found false, during the course of investigation conducted by the Deputy Superintendent of Police. Petitioner Jagdish Raj Sharma is a retired Army Officer decorated with Sena Medal. Had the complainant-respondent No.2 recorded her protest before any police authority about the compromise (Annexure P-2), her plea might have been found worth acceptance. However, since she conveniently kept silent in this regard, complainant has not been found to be a reliable person. It seems that she is now trying to back out from the compromise, because of her ulterior motives. Complainant cannot be permitted to take a somersault, while trying to back out from the agreed terms of compromise (Annexure P-2).

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **Ruchi Aggarwal Vs. Amit Kumar Aggarwal, 2005 (3) SCC 299** and **Mohd. Shamin Vs. Smt. Nahid Begum, 2005 (3) SCC 302**.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that continuation of criminal proceedings arising out of the impugned FIR, would result in miscarriage of justice, because of which both these petitions deserve to be accepted.

Consequently, exercising the inherent powers under Section 482 Cr.P.C., impugned FIR No.140 dated 09.11.2013 under Sections 323, 354, 34 IPC and Section 3, 11 of SC&ST Act, registered at Police Station Mukerian, District Hoshiarpur (Annexure P-1), as well as the consequential criminal proceedings arising therefrom, are hereby quashed so as to prevent any further

abuse of process of Court and also to secure the ends of justice.

Resultantly, with the abovesaid observations made, both these petitions stand allowed, however, with no order as to costs.

11.09.2015
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE