

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-43775-2014
Date of decision:28.8.2015

Kamaljeet Sachdeva and others

...Petitioners

Versus

State of Haryana and others

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.A.D.S.Sukhija, Advocate for the petitioners.
Mr.Ashish Yadav, Addl. A.G., Haryana.
Mr.Nipun Vashisht, Advocate for
Mr.Gautam Dutt, Advocate for respondents No. 2 to 4.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), invoking its inherent jurisdiction, for quashing of FIR No.212 dated 21.4.2011 registered under Sections 406, 420, 467, 468, 471 and 120-B of the Indian Penal Code ('IPC' for short), at Police Station Civil Lines, Gurgaon and the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Initially, the instant petition was filed for quashing of the impugned FIR on the basis of compromise dated 4.3.2013 (Annexure P-2). Notice of motion was issued and parties were directed to appear before the learned trial Court for getting their statements recorded, qua the genuineness of the compromise and the learned trial Court was also directed to send its report to this Court.

In compliance of the order dated 22.12.2014, a report dated 27.3.2015 was received from the learned Additional Chief Judicial Magistrate, Gurgaon to the effect that although statement of the complainant namely Anil Kumar Sachdeva was recorded, wherein he stated that accused Kamaljeet was his real brother and matter was compromised between them before the Mediation and Conciliation Centre at Delhi High Court, but since the terms and conditions of compromise have not been fully satisfied till date, he requested for some more time to the parties, keeping the petition for quashing of FIR pending. This statement of the complainant recorded by the learned Additional Chief Judicial Magistrate, Gurgaon, on 21.3.2015 is available on the record with the report of the learned trial Court. This was the reason that on the last date of hearing, i.e. 13.8.2015, learned counsel for the petitioners sought one last and final opportunity to verify as to whether compromise arrived at between the parties, was still subsisting or not.

Learned counsel for the petitioners refers to the detailed mutual settlement arrived at between the parties by way of settlement agreement dated 4.3.2013 (Annexure P-2), to contend, that complainant-respondent No.2, although not denied this mutual settlement as well as his equally

detailed sworn affidavit dated 18.9.2014 (Annexure P-3), yet later on he turned dishonest and now trying to back out from the mutual settlement. He fairly states that let the parties be directed to remain bound by the terms and conditions of settlement arrived at, by way of Annexure P-2 dated 4.3.2013 and the impugned FIR, including the proceedings arising therefrom, may be ordered to be quashed. He prays for allowing the present petition.

Learned counsel for the State fairly states that in case the parties have arrived at an amicable settlement, in that situation, he would have no objection in quashing the impugned FIR, as well as the criminal proceedings arising therefrom.

However, learned counsel for the complainants expressed his reservation about the settlement arrived at between the parties, contending that since the petitioners have not performed their obligation in compliance of the mutual settlement (Annexure P-2), they are not entitled for getting the impugned FIR quashed. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, instant one has been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., for the following more than one reasons.

It is a matter of record that parties were referred to the Mediation and Conciliation Centre before the Delhi High Court and a detailed agreement was written on 4.3.2013 (Annexure P-2) which was

signed by all the accused as well as the complainant. Thus, the matter was mutually settled between the parties before the Mediation and Conciliation Centre of Delhi High Court vide Annexure P-2. It is also a matter of record that in compliance of the above-said mutual settlement arrived at between the parties, complainants-respondents No. 2 to 4 furnished their sworn affidavits which are available on record in the form of Annexure P-3 (Colly). Para 8 of the sworn affidavit dated 18.9.2014 of complainant-respondent No.2, reads as under:-

“That a Banker's Cheque bearing no.002963 dated 27.08.2014 for a sum of Rs.1.25 Cr. drawn by HDFC Bank, Bhera Enclave, New Delhi-110087 payable to deponent has been handed over by Kamaljit Sachdeva to deponent and thus Kamaljit Sachdeva has performed all his obligations under the settlement/agreement dated 04.03.2013.”

In view of the above-said averments taken in para 8 of the affidavit of respondent No.2, when a pointed question was put to the learned counsel for the complainants, as to why the petitioners were backing out from the terms of compromise, he had no answer and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that it is the complainants, who have turned dishonest and trying to back out from the mutual settlement arrived at between the parties by way of compromise (Annexure P-2), with a view to extract more money from the petitioners.

In such a situation, complainants-respondents cannot be permitted to back out from their mutual settlement arrived at with the petitioners. It is so said because the learned counsel for the complainants did not allege even before this Court that the mutual settlement (Annexure

P-2) was not a voluntary one or that the complainants were misled by the petitioners. In fact, once both the parties have arrived at mutual settlement with open eyes, they cannot be permitted to back out from the terms and conditions thereof, until and unless one party alleges playing fraud against other party, which is not the case here.

The above-said view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court of India in **Ruchi Aggarwal v. Amit Kumar Agarwal**, 2005 (3) SCC 299 and **Mohd. Shamim v. Smt. Nahid Begum and another**, (2005) 3 SCC 302, judgments of Delhi High Court in **Satish Gathwal v. State**, 1999 (1) RCR (Crl.) 59, **Rajesh and others v. State and another**, 2008 (3) JCC 1536 and **Dalbir Singh v. State and others**, 2013 (6) RCR (Crl.) 609 and judgment of this Court in **Nirmal Sachdeva v. State of Haryana and another** 2008 (2) Cri. CC 865.

The observations made by the Hon'ble Supreme Court in paras 11 and 12 of its judgment in **Mohd. Shamim's** case (supra), which can be gainfully followed in the present case, read as under:

“Before us, there is no denial or dispute as regard the factum of entering into the aforementioned settlement dated 14.11.2002. In the said deed of compromise it has categorically been averred that the same had been entered into on the intervention of S.N. Gupta, Additional Sessions Judge, Delhi. It has also been accepted that out of sum of Rs.2,75,000/-, a sum of Rs.2,25,000/- has been paid to the First Respondent herein and the balance amount of Rs.50,000/- would be paid at the time of complainant's making statement and no objection for quashing the FIR, which was retained in the court as per the direction of the court. It has further been

averred that no dispute remained between the parties regarding the payment of dower amount (Mehar), dowry articles, including the alleged jewellery gift etc.

In view of the fact that the settlement was arrived at the intervention of a judicial officer of the rank of the Additional Sessions Judge, we are of the opinion, the contention of the First Respondent herein to the effect that she was not aware of the contents thereof and the said agreement as also the affidavit which were got signed by her by misrepresentation of facts must be rejected. In the facts and circumstances of this case, we have no doubt in our mind that the denial of execution of the said deed of settlement is an afterthought on the part of the Respondent No.1 herein.”

Reverting back to the facts of the present case and respectfully following the law laid down by the Hon'ble Supreme Court, Delhi High Court as well as this Court, in the cases referred to hereinabove, it is unhesitatingly held that the complainants cannot be permitted to back out from the mutual settlement arrived at between them and the petitioners, because they did not allege any kind of misrepresentation against the petitioners. If any of the parties are allowed to back out from their mutual settlement, it would amount to grant premium to a dishonest litigant and shall also render the court proceedings to a mockery, which cannot be permitted in law.

Further, the settlement was arrived at between the parties during mediation proceedings. The Legislature has amended Section 89 of Code of Civil Procedure in the year 2002. There is an all round attempt by the Legislature and Judiciary, as well as the Executive, to promote the settlement of disputes through the process of Mediation. Therefore, once

disputes between the parties have been settled by the process of mediation, it would be in the public interest to attach importance to such a process and treat the settlement as a solemn settlement. Otherwise, the movement of mediation may itself suffer, if the parties are given to understand that even after they agree for settlement, one of the parties can still back out.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noticed above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition deserves to be accepted.

Consequently, impugned FIR No.212 dated 21.4.2011 registered under Sections 406, 420, 467, 468, 471 and 120-B IPC at Police Station Civil Lines, Gurgaon and the consequential proceedings arising therefrom are ordered to be quashed. However, it is made clear that parties to the settlement agreement dated 4.3.2013 (Annexure P-2), shall remain bound by the terms and conditions thereof.

Resultantly, with the above-said observations made and directions issued, present petition stands allowed, however, with no order as to costs.

28.8.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE