

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-560 of 2014

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Date of decision:22.3.2016

Mohan Lal Vashisht and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

(2) Criminal Misc. No.M-31963 of 2015

.....

Ashutosh Krishan

.....Petitioner

v.

State of Punjab

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. S.S. Salar, Advocate for the petitioners in both the petitions.

Mr. Varun Sharma, Assistant Advocate General, Punjab for the respondent-State.

Mr. Vineet Chaudhary, Advocate for complainant-respondent No.2.

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Inderjit Singh, J.

This order will dispose of the above mentioned two criminal miscellaneous petitions i.e. Criminal Misc. No.M-560 of 2014 filed under

Section 482 Cr.P.C. for quashing of FIR No.121 dated 30.8.2010 registered for the offences under Sections 406, 420, 201 and 120-B IPC at Police Station Dera Bassi, District S.A.S. Nagar (Mohali) and Criminal Misc. No.M-31963 of 2015 filed for quashing of the impugned order dated 18.7.2011 passed in FIR No.121 dated 30.8.2010, declaring petitioner-Ashutosh Krishan as proclaimed offender without application of mind being misuse of process of law as well as all other subsequent proceedings arising therefrom on the basis of compromise.

The FIR was registered on the statement of complainant-Bal Krishan against the petitioners on the allegations that there was one industrial plot allotted to the complainant at Panchkula out of NRI quota and he started the industry there. The complainant requested petitioner-Mohan Lal Vashisht to manage his factory, who told the complainant to give him a GPA and then only he will be able to manage his factory. Then petitioner No.1 prepared the GPA and sent to Germany and the complainant signed the same on 24.6.2005. Mohan Lal fraudulently executed transfer deed of complainant's land in favour of Ashutosh and Ashutosh further executed G.P.A. in favour of Gopal Krishan brother of Mohan Lal, who further sold his land by way of agreement to sell in favour of Darshan Singh thereby by conniving with each other fraudulently and forged documents had grabbed land measuring 5 Bighas and 5 Biswas of NRI-complainant at Village Lalru purchased by him in 1978. In fact the complainant never authorized Mohan Lal to transfer his land which he deliberately transferred the same in the name of his previous son Ashutosh.

It has been submitted in the petition i.e. Criminal Misc. No.M-31963 of 2015, that petitioner Ashutosh Krishan is a British citizen living in UK. He was issued the British Passport on 20.6.2009. Earlier to that the petitioner was holding a German passport issued on 28.9.2004. On German passport, the petitioner visited India on Visa valid from 1.10.2008 to 31.3.2009. On British passport, the petitioner has not visited India even on once. Vide impugned order dated 18.7.2011 passed by Sub Divisional Judicial Magistrate, Dera Bassi, the petitioner has been declared as proclaimed offender. Now with the intervention of respectable persons, both the parties have arrived at an amicable settlement and have effected a compromise.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Judicial Magistrate Ist Class, Dera Bassi has sent his report dated 19.1.2016 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for complainant admit the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR and the impugned order in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioners as well as learned Assistant Advocate General, Punjab and learned counsel for the complainant-respondent No.2 and have gone through the record.

In a decision, based on compromise, none of the parties is a loser. Rather, compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

Therefore, keeping in view the fact that the matter has been amicably settled and in view of the law laid by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, these petitions are allowed and FIR No.121 dated 30.8.2010 registered for the offences under Sections 406, 420, 201 and 120-B IPC at Police Station Dera Bassi, District S.A.S. Nagar (Mohali) and the impugned order dated 18.7.2011 passed in FIR No.121 dated 30.8.2010, declaring petitioner-Ashutosh Krishan as proclaimed offender, as well as all other subsequent proceedings arising out of the same are hereby quashed/set aside.

March 22, 2016.

(Inderjit Singh)
Judge

hsp