

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-11716-2016

Date of decision : 06.03.2017

Sunny Chawla and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Arun Makkar, Advocate,
for Mr. L.M.Gulati, Advocate,
for the petitioners.

Mr. R.S.Nain, Assistant Advocate General, Punjab,
for respondent No.1

None for respondent Nos.2 and 3.

JITENDRA CHAUHAN, J. (ORAL)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.5 dated 08.01.2015, registered under Sections 452, 341, 323 and 506 read with Section 34 of the Indian Penal Code (for short 'the IPC'), at Police Station Islamabad, District Amritsar City, and all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2) arrived at between the parties.

Vide order dated 15.11.2016, the following orders have been passed by this Court:-

“As per report dated 15.07.2016, received from the learned Judicial Magistrate Ist Class, Amritsar, the parties have not appeared before the Court below to get their statements recorded in terms of the order dated 05.04.2016 passed by this Court. Therefore, learned counsel for the petitioners seeks another opportunity.

Accordingly, the parties are once again directed to appear before the trial Court for recording their respective statements with regard to the compromise/settlement on 12.12.2016, or any other date convenient to the Court, which the trial Court shall record in terms of the order dated 05.04.2016 passed by this Court.

List on 06.03.2017.

However, it is made clear that in case parties failed to appear before the Court below to get their statements recorded in terms of the order dated 05.04.2016, present petition would deemed to have been dismissed.”

In compliance of the order dated 15.11.2016, learned Judicial Magistrate Ist Class, Amritsar, has submitted its report. The same is taken on record. The relevant part of its report reads as under:-

“3. In pursuance of the above mentioned Criminal Miscellaneous, I have the honour to submit that on 09.01.2017, accused/petitioner Sunny Chawla son of Avinash Chawla and Samar son of Vikas Arora appeared in this Court. The respondent/complainant Hemant Sandhu @ Lucky son of Harish Kumar also appeared. The statement of respondent/complainant was got recorded to the effect that now the matter has been compromised between the complainant and the accused. The accused Sunny Chawla son of Avinash Chawla and Samar son of Vikas Arora got recorded their statement qua the effecting of compromise. It is pertinent to mention over here that as per order of your goodself and as per the name mentioned as one of the respondents, Gaurav son of Ram Lubhaya has to appear before the court for got recording his statement qua effecting the compromise, but person namely Pardeep Kumar son of Ram Lubhaya appeared in the court on 09.01.2017 and stated orally that he is the person whose name is mentioned as one of the respondents in the present Criminal Misc. He produced his ID proof in which his name is mentioned as Pardeep Kumar son of Ram Lubhaya but the name mentioned as one of the respondents in the present Criminal Misc. is Gaurav son of Ram Lubhaya. Record perused, as per the contents of the FIR No.5 dated 08.01.2015, u/s:- 452/341/323/506/34 IPC registered at P.S. Islamabad, Amritsar there is one name mentioned Gaurav son of Ram Lubhaya. This court is not satisfied whether Pardeep Kumar son of Ram Lubhaya is the same person as mentioned in the present Criminal Misc. or not. As such the statement of the Pardeep Kumar son of Ram Lubhaya is not recorded as the name of respondent is mentioned as Gaurav son of Ram Lubhaya in this Criminal Misc. M-11716 of 2016. However, the statements of the other parties has been recorded as per your goodself's orders in which they have stated qua effecting the compromise. As the statement of one respondent is not recorded due to the reason as

mentioned above, this court is not sure whether any compromise has been effected between the parties or not. Report is submitted for your kind perusal.”

As per report of the learned trial Court, it appears that in compliance of above-said order dated 15.11.2016, respondent No.3 Gaurav son of Ram Lubhaya had to appear before the learned trial Court for recording his statement to the effect that the compromise/settlement entered into between the parties is genuine and without any pressure. But instead of respondent No.3-Gaurav son of Ram Lubhaya, one Pardeep Kumar son of Ram Lubhaya appeared before the learned trial Court and stated orally that he is the person whose name is mentioned as respondent No.3 in this case. In support of his contention, he produced his identity proof in which his name was mentioned as Pardeep Kumar son of Ram Lubhaya but he was not able to prove that he is the same person whose name is mentioned as respondent No.3 in the instant petition.

Keeping in view the above facts and in the absence of recording of the statement of respondent No.3-Gaurav son of Ram Lubhaya, no case for quashing of above-said FIR is made out.

Dismissed.

06.03.2017
adhikari

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No