

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

CRM-M-1946-2014

Date of decision-20.04.2017

Cholamandalam Investment and Finance Co.Ltd and others

...Petitioner(s)

Vs.

St.Lawrence English School and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D.K.Singal, Advocate for the petitioner(s).

Mr. Harsh Aggarwal, Advocate for the respondent(s).

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed under Section 482 of the Criminal Procedure Code (in short Cr.P.C) for quashing of the complaint No.39 dated 17.08.2009 (Annexure P-1) filed under Sections 384, 385, 418, 390, 392, 365, 506 and 148 read with Section 149 of Indian Penal Code (in short 'IPC') and summoning order dated 25.11.2013 (Annexure P-2) passed by Sub-Divisional Judicial Magistrate, Samana.

The brief facts of the case are that the respondents filed complaint under Sections 384, 385, 418, 390, 392, 365, 506 and 148 read with Section 149 of the IPC in the Court of Sub Divisional Judicial Magistrate, Samana. It was averred in the complaint that:-

“The complaint is based upon facts and allegations gist of which is to the effect that complainant No.1 (hereinafter referred as school) got its four vehicles i.e. two Tempo Mini doors, one Bus and one Tata LP 1512 bearing registration No.PB-11-S-1935, PB-11-X-0635, P-11-Q-6835 financed from accused and it has

been paying installments regularly at proper time to the accused and even all installments have been paid pertaining to both mini doors bearing registration No. PB- 11-X-0635 and PB-11-X-0535 and No due certificate has also been issued by accused in respect of Bus bearing registration No.PB-11-Q-6835. Accused No.3 Rekesh Mittal has finally settled the matter and two cheques as detailed in para No.4 of complaint were issued by complainant No.1 as full and final payment regarding all installments. The complainant No.1 has been also regularly paying installments of other bus bearing registration No.PB-11-S-1935. Complainant No.1 requested accused persons to issue No due certificates in respect of above said two mini doors but to no avail. Complainant No.1 wanted to sell the above said minor doors and even struck a deal in this regard and even delivered its possession to Tejinder Kaur Principal of Marri Gold Public School and remaining price was paid by her only after giving No due certificate by accused but accused instead of issuing these certificate, forcibly snatched one of mini doors bearing No.PB-11-X-0535 at gun point on 08.09.2007. Complainant reported the matter to police but police did not take any action against accused. Complainant moved application before DSP, Samana accused on coming to know about filing of this application, forcibly snatched their bus No.PB-11-S-1935 at gun point on 04.10.2007. Accused also took complainant No.2 (driver of this bus) with them and left him at village Pasiana District Patiala and snatched his mobile phone so that could not inform any one about this incident. Complainant No.1 visited office of accused for resolving the matter but the openly abused, manhandled, insulted, threatened and intimidated complainant No.1 and his son of dire consequences.”

On behalf of the petitioners it is contended that learned trial Court has failed to appreciate the fact that the complainant had already availed civil remedy and a compromise in this regard had already been entered into before the Meditation and Conciliation Centre of this Court on 20.09.2013. The relevant terms of which are reproduced as under:-

“4. It has been further agreed between the parties that the respondent shall withdraw the civil suits

filed by him.

6. That it has also been decided between the parties that in case of coming into knowledge of any petition or case filed by any of the parties against each other. The same shall be liable be withdrawn or closed by both the parties or any of the parties by tendering a copy of the present compromise.”

It is further contended that after the said settlement the Civil Revision No.4347 of 2010, filed by the petitioners was withdrawn by them. However, the said civil suit was not withdrawn by the respondents inspite of the fact 'No Objection Certificate' in respect of vehicles in question had been already handed over by the petitioners to respondents but the same was not received by the respondents from the petitioners. In-fact the respondents have violated the terms and conditions of the compromise.

On the other hand, learned counsel for the respondents states that the compromise effected before the Mediation and Conciliation Centre of this Court was in respect of civil proceedings and not regarding the criminal proceedings being not compoundable offences. It is further contended that the respondents had issued 'No due certificate' in respect of all the four vehicles. It is further contended that civil and criminal proceedings are separate and both can be pursued simultaneously.

I have heard the learned counsel for the parties and have gone through the case file.

This Court is of the opinion that once a compromise had been reached between the parties and the respondents have availed the civil remedy by way of filing civil suit then the filing of criminal complaint

before the Court of Area Magistrate on the same cause of action is nothing but abuse of the process of law. The matter with regard to the snatching of all the vehicles in question was pending before the Court. The complainant in order to put pressure upon the petitioners filed the impugned complaint. Even the learned trial Court has not applied its mind while passing the summoning order. This is clear from the fact that the number of accused is three whereas the trial Court has summoned the accused under Section 149 of IPC as well.

In view of the above, present petition is allowed and the impugned complaint as well as summoning order stand quashed.

(JITENDRA CHAUHAN)
JUDGE

April 20, 2017

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No