

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

CRM No.M-34331 of 2015 (O&M)

Date of Decision: May 03, 2017

Silki Sharma and others

...Petitioners

VERSUS

Sushma Rani and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rahul Bhargava, Advocate
for the petitioners.

Mr.Vaibhav Narang, Advocate
for the respondents.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing the criminal complaint No.64/498/2014 dated 19.08.2014 titled as 'Sushma Rani vs. Silki Sharma and others', summoning order dated 22.12.2014 passed by learned Judicial Magistrate Ist Class, Amritsar as well as subsequent proceedings arising therefrom and also the judgment dated 13.05.2015 passed by learned Addl. Sessions Judge, Amritsar, vide which the revision filed by the petitioners was also dismissed.

Notice of motion was issued. Learned counsel for the respondents appeared and contested the petition.

Learned counsel for the petitioners firstly argued that a compromise has taken place between the parties and the complainant has

also availed the benefit under the compromise and suit filed by the present petitioners has been withdrawn by them. He further argued that even this complaint is liable to be quashed on merit as there is no publication of any defamatory material.

On the other hand, learned counsel for the respondents argued that the trial Court has already taken the cognizance and the trial is almost complete, therefore, the petitioners can take all these pleas before the Magistrate and the present petition should be dismissed.

After hearing learned counsel for the parties and after going through the record, I find that Annexure P-3 is the copy of the compromise. As per this compromise, it is stated that from that day, both the parties will not file any complaint and will not take any legal action against each other. If either party backtracked from the terms of this compromise then that party shall be bound to pay compensation of ₹1 lakh to the other party and the other party shall be at liberty to take legal action against the concerned party. Annexure P-4 is the order passed by learned Addl. Civil Judge (Senior Division) Baba Bakala in civil suit for permanent injunction. As per this order dated 04.09.2013, statements of counsel for the plaintiffs and counsel for the defendants regarding the compromise have been recorded. Compromise Ex.D1 was placed on the file and it was held that in view of the statements of learned counsel for the parties, suit of plaintiff is dismissed as withdrawn. In this civil suit, Sunil Rikhi and Rahul Rikhi were the plaintiffs, who are petitioners No.2 and 3 in the present case and Sushma Rani, Saroj Bala (respondents) and Monika Rikhi were the defendants.

The copy of the statement of counsel for the plaintiff withdrawing the suit is also placed on record. The compromise placed on

record shows that suit filed by present petitioner has also been withdrawn in view of the compromise and in the compromise, parties have agreed not to file any litigation against each other. The compromise is dated 28.08.2013 and the suit has been withdrawn on 04.09.2013 and the present complaint is stated to have been filed on 19.08.2014. The complaint in question has been filed by the petitioner Silky to the SSP Rural, Amritsar on 12.03.2013 i.e. before the parties entered into the compromise.

Therefore, from the perusal of the record, it is clear that complainant after taking the benefit under the compromise and by getting withdrawal of the suit filed by the present petitioners against them, now filed the complaint dated 19.08.2014 and have retracted from the compromise.

The Hon'ble Supreme Court in ***Mohd. Shamim vs. Smt.Nahid Begum, 2005(1) RCR (Criminal) 697*** has held as under:-

*"14. This Court in **Ruchi Agarwal vs. Amit Kumar Agrawal & Ors. 2004 (4) RCR (Crl.) 949 (SC) : [2004(8) Supreme 525]**, in almost a similar situation has quashed a criminal proceeding against the husband, stating :*

"..Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

8. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue..."

15. In view of the conduct of the First Respondent in entering into the aforementioned settlement, the continuance of the criminal proceeding pending against the Appellants, in our

opinion, in this case also, would be an abuse of the process of the court. The Appellant No.1, however, would be entitled to withdraw the sum of Rs.50,000/- which has been deposited in the court. We, therefore, in exercise of our jurisdiction under Article 142 of the Constitution of India direct that the impugned judgment be set aside. The First Information Report lodged against the Appellants is quashed. The Appeal is allowed. However, this order should not be treated as a precedent.

I have gone through the above cited judgment and the same fully applies to the facts of the case. Therefore, criminal complaint No.64/498/2014 dated 19.08.2014 titled as 'Sushma Rani vs. Silki Sharma and others' is liable to be quashed and is nothing but abuse of process of law. Furthermore, on the basis of complaint made by present petitioners to the SSP Rural, copy of which is Annexure P-5 on the record, there is nothing to show that any defamatory material has been published with the purpose to defame the complainants in the eyes of general public. Complainant Silky wife of Sunil Rikhi had filed this complaint to avail the remedy available to her before the competent authority. No FIR was registered on the basis of this complaint.

Learned counsel for the petitioners argued that they have also not taken any further action on that complaint in view of the compromise. Otherwise also, on merits, I find that filing the complaint to the competent authority does not amount to publication of defamatory material. On this ground also, criminal complaint is liable to be quashed.

Therefore, finding merit in the present petition, the same is allowed.

The criminal complaint No.64/498/2014 dated 19.08.2014 titled as 'Sushma Rani vs. Silki Sharma and others', summoning order dated

22.12.2014 passed by learned JMIC, Amritsar as well as subsequent proceedings arising therefrom, are hereby quashed.

May 03, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No