

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

**Criminal Misc. No. M-4215 of 2017
Date of Decision:-13.07.2017**

Avtar Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Ms. Isha Goyal, Advocate
for the petitioners.

Ms. Simranjeet Kaur, AAG, Punjab.

Mr. Bikramjit Singh Randhawa, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.140 dated 13.7.2005, under Sections 420 and 120-B IPC, registered at Police Station Beas, District Majitha, Amritsar (Annexure P-1) along with all consequential proceedings arising therefrom including the order dated 17.12.2005 (Annexure P-4) whereby the petitioner No.2 was declared as proclaimed offender, on the basis of settlement/compromise.

Learned counsel for the petitioners has argued that a compromise deed was executed between the parties on 19.12.2016, which

was notarized from the Notary Public on 10.1.2017. As per the compromise deed the matter has been resolved between the parties.

It being a quashing on the basis of compromise deed, this Court vide order dated 20.2.2017 had directed the learned Illaqa Magistrate to get the statements of the parties recorded on 3.3.2017 subject to deposit of Rs.50,000/- by the petitioners-accused in the office of the SSP, Amritsar (Rural) as a pre-condition for recording of statements.

The order dated 20.2.2017 passed by this Court read as under :-

“In FIR No.140 dated 13.7.2005, registered under Sections 420, 120-B IPC, Police Station Beas, District Majitha, Amritsar, the petitioners seek quashing of the FIR on the basis of compromise. Shri P.S. Baidwan, Advocate appears for the complainant.

Learned Senior Counsel for the petitioners and Learned Counsel for the complainant state that the FIR related to alleged collection of money by the petitioners from the complainant for sending abroad. Admittedly, the FIR relates to the year 2005 and challan was also filed. Learned Senior Counsel for the petitioners states that one of the petitioners, namely, petitioner No.1 was found innocent by the police during investigation.

Be that as it may, the fact remains that the entire Govt. machinery was used after setting the criminal law into motion. In that view of the matter, I think the petitioners should pay by way of compensation Rs.50,000/- to the State of Punjab and as a condition precedent for recording of compromise/compounding. In that view of the matter, parties, i.e. Petitioner No.1 Avtar Singh and the complainant Magwinder Singh, are

directed to get the statements recorded before the Illaqa Magistrate on 3.3.2017 and before the said date, the amount of Rs.50,000/- shall be deposited with the office of SSP, Amritsar Rural as a pre-condition for recording of statements. The statements shall not be recorded unless the compliance is verified by the learned Magistrate.

Notice of motion to the respondents for 31.3.2017.”

Learned counsel for the petitioners has argued that pursuant to order dated 20.2.2017 the petitioners have deposited Rs.50,000/- with the office of SSP, Amritsar (Rural) and the statements of the parties including of the complainant have been recorded before the learned Magistrate on 08.3.2017.

The report dated 16.3.2017 received from the learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, reveals that the compromise has been effected between the parties voluntarily without any undue pressure.

The statement made by complainant Magwinder Singh before the SDJM, Baba Bakala Sahib, Amritsar, on 08.3.2017 reads as under :-

“The present case has been registered on my statement against the accused persons namely Avtar Singh son of Ralla Singh, resident of L-12-2016, Gali No.5, Sultanwind Road, Sarwarpura, Amritsar and Darshan Singh son of Avtar Singh, resident of 1209, Sherman ST. Danville IL 61382. Now the matter has been compromised with the accused persons with the intervention of respectable persons of the village. I have

no objection if the FIR No.140 dated 13.7.2005, Under Sections 420, 120-B IPC, PS Beas is quashed by the Hon'ble High Court. I do not want to take further action against accused persons. I have made this statement out of free will, without any threat or pressure.”

Learned counsel appearing for respondent No.2-complainant has admitted the very factum of compromise effected between the parties and stated that he has no objection in case the FIR is being quashed.

Learned State counsel also does not dispute the aforesaid factual position, rather admits the factum of compromise effected between the parties.

Heard.

Since the parties have entered into a compromise and learned Magistrate has recorded their statements followed by his report, continuation of the trial arising out from the impugned FIR and consequential proceedings would be sheer abuse of the process of law since chances of conviction are bleak.

Keeping in view the factum of compromise effected between the parties and the law laid down by this Court in the case of **Kulwinder Singh and others vs. State of Punjab and another 2007(3) RCR (Crl.) 1052 (P & H)** and as approved by Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and others, (2012)10 SCC 303**, this petition is allowed and FIR No.140 dated 13.7.2005, under Sections 420 and 120-B IPC, registered at Police Station Beas, District Majitha, Amritsar (Annexure P-1) along with all consequential proceedings arising therefrom including the

order dated 17.12.2005 (Annexure P-4) whereby the petitioner No.2 was declared as proclaimed offender are hereby quashed qua petitioners on the basis of compromise.

July 13, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No