

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-11045-2018 (O&M)

Date of Decision:07.12.2018

Surinder Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Hitesh Kumar Sammi, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab,
for respondent Nos.1 to 3.

Mr. Kamal Sachdev, Advocate,
for respondent Nos.4 and 5.

HARI PAL VERMA, J.(Oral)

CRM-32484-2018

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record statement of Parduman Kumar, Octroi Inspector (complainant) vide Annexure P-4 and also exemption from filing the certified copy thereof.

Application is allowed, as prayed for. Statement of the complainant (Annexure P-4) is permitted to be placed on record. Exemption sought is granted.

CRM-M-11045-2018

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.6 dated 16.01.2010 under Sections 420, 406, 465, 468,

471 IPC, registered at Police Station Cantt. Jalandhar, District Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise effected with the Cantonment Board vide Resolution dated 29.01.2018 (Annexure P-3).

This Court vide order dated 12.10.2018 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and the learned trial court was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, parties have appeared before learned Judicial Magistrate 1st Class, Jalandhar and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 03.11.2018 to the effect that the compromise effected between the parties is genuine one and is voluntarily without any pressure, out of free will, duress or any undue influence.

Learned counsel for respondent Nos.4 and 5 states that Cantonment Board has authorized Mr. Parduman Mittal, Octroi Inspector who was otherwise the complainant too, to make a statement on its behalf. Pursuant thereto, he has deposed that as per the authority given by the Cantonment Board, he referred to the copy of the Resolution i.e. Cantonment Board Resolution dated 29.01.2018, the relevant extract of the said Resolution reads as under:-

“After hearing Shri Ratta Dua, Advocate, counsel for Sh. Surinder Kumar, Partner M/s Indra Filling Station along with Sh. Surinder Kumar personally and after considering the pleas to the effect that he personally had no intention to misappropriate the octroi and rather taking into consideration his plea that the misappropriation has been conducted by his employee Roop Chand Mandal, who had run away. The

Cantonment Board has unanimously resolved being principal incharge of M/s Indra Filling Station, Sh. Surinder Kumar is liable to pay octroi and penalty as per provisions of Section 91 of Cantonments Act, 2006. Taking into consideration that Sh. Surinder Kumar was not personally involved in the embezzlement directly, the minimum penalty is being imposed i.e. total outstanding octroi plus two times as penalty. The total outstanding octroi is Rs.11,82,673/- and thus by putting up penalty i.e. two times of octroi, the total outstanding amount payable by M/s Indra Filling Station, though Sh. Surinder Kumar is agreed to be Rs.35,48,019/-. At this stage, Sh. Rattan Dua, Advocate and Sh. Surinder Kumar requests after admitting the liability that M/s Indra Filling Station and Sh. Surinder Kumar are not in a position to pay the outstanding amount immediately, a request is being made by Sh. Surinder Kumar through his Advocate Sh. Rattan Dua that half of the amount of the total outstanding would be paid within ten days and balance amount would be paid within six months i.e. in two installments of three months each.

Further resolved that taking into consideration the said request and huge amount Sh. Surinder Kumar would furnish an undertaking along with cheque of half of the amount, which would be of 08.02.2018 and would also issue post dated cheques of three months each pertaining to the balance amount in two equal installments. It is further resolved that in case of any default at any stage, then Cantonment Board would be at liberty to seek the outstanding amount i.e. ten times, the total penalty from M/s Indra Filling Station and Sh. Surinder Kumar and further it has been undertaken that in case Sh. Surinder Kumar files the quashing of FIR after making the entire payment as settled hereinabove, the concerned official who has got the FIR registered, would be authorized to get the FIR quashed due to compromise.”

Statement of Mr. Parduman Kumar, Octroi Inspector, who is

authorized by the Cantonment Board and is also complainant in the case, reads as under:-

“Stated that FIR No.6 dated 16.01.2010, under Section 406, 465, 468, 471 IPC, P.S. Cantt. was got recorded by me on behalf of Cantonment Board against the accused Roop Chand Mandal and Surinder Kumar. Now the compromise has been effected between Surinder Kumar and Cantonment Board vide resolution No.11 dated 29.01.2018 and all the terms and conditions of the compromise has already been complied by Surinder Kumar. The copy of same is Ex.C1. Now, no amount is due towards him and all the accounts were settled. I have no objection if the abovesaid FIR be quashed. The present compromise is with the free Will, genuine, voluntary and without any coercion or undue influence. In the said case accused Roop Chand Mandal was already declared proclaimed offender vide order dated 28.10.2010.”

Learned State counsel has not disputed the factum of compromise between the parties.

Learned counsel for respondent Nos.4 and 5 states that he has no objection if the FIR in question is quashed as the petitioner has deposited the outstanding amount to the Cantonment Board.

In view of the above, no useful purpose would be served to continue with the proceedings before the trial Court in the instant F.I.R.

Following the principles laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052*** and approved by the Hon'ble Supreme Court in ***Gian Singh Versus State of Punjab and others (2012) 10 SCC 303***, this petition is allowed and FIR No.6 dated 16.01.2010 under Sections 420, 406, 465, 468, 471 IPC, registered at Police Station Cantt.

proceedings arising therefrom are hereby quashed qua the petitioner on the basis of compromise(Annexure P-3), subject to payment of costs of ₹20,000/- to be paid within 15 days from today with the Poor Patients Welfare Fund, PGIMER, Chandigarh. The petitioner shall produce a receipt with the Registry.

December 07, 2018

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(HARI PAL VERMA)**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No