

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-36879 of 2016
Date of decision: 10.08.2018

Nishan Singh

..Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Subhash Kumar, Advocate for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

HARI PAL VERMA, J.(ORAL)

Petitioner has filed instant petition under Section 482 Cr.P.C. for quashing of FIR No. 39, dated 14.05.2014, registered under Sections 420, 120-B, 406 IPC, Police Station Kahnwa, District Pathankot, taking into consideration the settlement/Agreement dated 15.12.2014 arrived at between the parties whereby the complainant Harjit Kaur has received an amount of ₹1,20,000/- from the petitioner.

The FIR was registered at the behest of complainant against Bakshish Singh who is the father of the petitioner. Complainant levelled allegations against the accused that the petitioner allured the complainant to send his son abroad on work permit where he would arrange a job for him with a salary of ₹ 30-40,000 per month. Accordingly, the complainant gave ₹3 lacs to Bakshish Singh and Bakshish Singh further gave this money to

Nishan Singh. Another sum of ₹ 1 lac was to be given after sending Sohan Singh son of the complainant abroad. However, in the year 2011 when Sohan Singh went to Dubai along with Nishan Singh-petitioner, Bakshish Singh took the remaining ₹1 lac from the house of the complainant. On reaching Dubai, petitioner-accused employed Sohan Singh as a cleaner for his vehicle and said that he will be given ₹15,000/- per month. The son of the complainant stayed with petitioner Nishan Singh for 5-6 months but the petitioner did not pay any salary to him. Having been harassed at the hands of the petitioner, Sohan Singh came back to his home and thereafter the complainant talked to Bakshish Singh, who demanded ₹ 2 lacs more so that his son Sohan Singh could be sent on work permit. In this manner, Bakshish Singh and his son Nishan Singh did not send Sohan Singh abroad on work permit despite payment of ₹ 4 lacs and have committed serious offences.

Counsel for the petitioner states that father of the petitioner Bakshish Singh had approached this Court for grant of anticipatory bail in CRM No.M-20744 of 2014 in FIR No.39, dated 14.05.2014 under Sections 420, 120-B, 406 IPC registered at Police Station Kahnwa, District Pathankot and the matter was referred to Mediation and Conciliation Centre vide order dated 09.10.2014. Pursuant to the said order, the parties appeared before the Mediation Centre and the matter was settled. As per the statements, Bakshish Singh agreed to pay ₹1,20,000/- to the complainant on 20.01.2015 on behalf of all the accused in the FIR. A receipt was duly executed by the complainant Harjit Kaur acknowledging the receipt of ₹ 1,20,000/- which was based on the settlement arrived at between the parties on 20.01.2015.

Learned counsel for the petitioner has argued that although the matter has been resolved between the parties, the petitioner is not coming up to get the FIR quashed despite having received the agreed amount of ₹1,20,000/-. Respondent No.2-Harjit Kaur had made a statement before Chief Judicial Magistrate on 20.05.2016 wherein she specifically admitted that the compromise has been effected between the parties. Therefore, pendency of the present FIR is nothing but an abuse of process of law. Notice of motion was issued to respondent No.2 but she has not put in appearance, though as per office report submitted for today, she has been duly served.

Learned State counsel, on instructions from ASI Balkar Singh, states that the police has completed the investigation and submitted the challan. The case is now fixed for 17.08.2018 before the trial Court. Therefore, the trial Court will adjudicate the matter on the basis of the statement/compromise.

I have heard learned counsel for the parties.

In fact in the present case the complainant after receipt of the agreed amount has backed out from the compromise. There is no dispute that on 20.05.2016 she had made a statement before Chief Judicial Magistrate that she has compromised the matter. The statement so made by the complainant reads as under:-

“I am complainant in this case FIR I have comprised the matter with petitioner-accused Bakshish Singh son Beanta Singh in this case FIR No. 39 dated 14.05.2014 under Section 420/406/120-B IPC, PS Kanwan with the intervention of the respectables in Mediation and Conciliation Centre of Punjab &

Haryana High Court, Chandigarh and as per settlement dated 15.12.2014 the matter was compromised and I had received Rs. 1,20,000/- in the said mediation Centre on 20.01.2015 (Copies attached). The matter has been mutually compromised with the accused and I have decided to end this litigation and live peacefully. I have no grudge against the accused. I am giving the statement voluntarily and with my free will and without any coercion”.

In the case of **Ram Lal and others Versus State of Haryana and another 2008(2) RCR (Criminal) 823**, it was held by this Court that when the parties have entered into a compromise, but the complainant has backed out from the same, the FIR is liable to be quashed in such like situation. The relevant paragraph of the said judgment reads as under:

“4. Learned counsel for the petitioners by placing reliance upon the judgment of Hon'ble Supreme Court in the case of **Mohd. Shamim v. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697: 2005(1) Apex Criminal 299 (SC)** contends that in view of the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon'ble Supreme Court has been pleased to observe as under :-

14. This Court in **Ruchi Agarwal v. 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.....”

Therefore, taking into consideration the judgment passed by this Court in **Ram Lal and others' case (supra)** as well as in **Criminal Misc. No. M-41417 of 2015** titled as **Naresh Kumar Versus State of Haryana and another** and **CRM-M-657 of 2013** titled as **Gurmit Singh Versus State of Punjab & another** decided on 20.9.16, the respondent No.2-complainant cannot be permitted to back out from her statement dated 20.5.16 particularly when her claim has been satisfied and she having made a statement that the matter has been mutually compromised between the parties, this Court finds that the present FIR deserves to be quashed.

Ordered accordingly.

(HARI PAL VERMA)
JUDGE

August 10, 2018

Poonam (II)

Whether speaking/reasoned:

Yes/No

Whether reportable

Yes/No