

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

CRM-M-39938 of 2018.

Decided on:- December 06, 2018.

Mohit Vij.

.....Petitioner.

Versus

Union Territory, Chandigarh and another

.....Respondents.

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

Present:- Mr. Ithlesh, Advocate for
Mr. Rahul Arora, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. Public Prosecutor, U.T., Chandigarh.

Mr. Vineet Sachdeva, Advocate for
Mr. Raman Goklaney, Advocate
For respondent No.2-complainant.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.93 dated 30.03.2018 under Sections 279 and 337 IPC registered at Police Station Sector 26 East, Chandigarh (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 04.09.2018 (Annexure P-2).

This Court vide order dated 12.09.2018 had directed the parties to appear before the trial Court/Illaq Magistrate to get their respective statements recorded with regard to compromise and the Court was directed to send its report qua genuineness of the compromise.

Pursuant to the aforesaid order, the petitioners as well as respondent No.2-complainant have appeared before learned Additional Chief Judicial Magistrate, Chandigarh and got their statements recorded on 10.10.2018. On the basis of the statements so recorded by the parties, learned Magistrate has submitted the report dated 16.10.2018 to the effect that the matter has been compromised amicably between the parties without any threat, coercion or any undue influence from any side.

The FIR in question has been recorded on the basis of statement of respondent No.2-complainant Shishpal Singh. His statement made before learned Magistrate on 10.10.2018 in support of the compromise, reads as under:

“I am complainant in the present case. The matter has been compromised between me and the accused amicably without any pressure, coercion or undue influence from any side and in that regard compromise has been reduced into writing which is Ex.C1. further, in terms of said compromise, I have received full and final payment towards compensation and now nothing is due towards compensation amount from the accused. I have no objection, if the FIR No.93 of 30.03.2018, under Section 279, 337 of Indian Penal Code, Police Station Sector 26, Chandigarh is quashed.”

Learned counsel for the petitioner has contended that though the aforesaid FIR was initially registered under Sections 279 and 337 IPC, but later on, Section 338 IPC was also added in the case. Therefore, the offence under Section 338 IPC is mentioned in the report dated 16.10.2018 submitted by learned Additional Chief Judicial Magistrate, Chandigarh.

Learned State counsel and learned counsel for respondent No.2-complainant have not disputed the factum of compromise effected between the parties.

In view of the above, continuation of the proceedings before the trial Court in the instant FIR qua the petitioner shall be an abuse of the process of law.

Thus, 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*, the present petition is allowed and the FIR No.93 dated 30.03.2018 under Sections 279 and 337 IPC (Section 338 IPC added later on) registered at Police Station Sector 26 East, Chandigarh (Annexure P-1) and all consequential proceedings arising therefrom are quashed qua the petitioner on the basis of compromise dated 04.09.2018 (Annexure P-2).

December 06, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No