

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

CRM-M-47001-2017 (O&M)

Date of Decision:-4.12.2018

Harjinder Kaur and others

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Paramjit Singh Brar, Advocate for the petitioners.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

Mr. Manjeet Singh, Advocate for the complainant.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioners seek quashing of FIR No.144 dated 21.6.2017 registered at Police Station Sector 14, Panchkula under Sections 384, 389 and 420 of Indian Penal Code, 1860 on the ground that the matter has since been compromised amongst the parties.

A copy of settlement/agreement dated 28.11.2017 effected amongst petitioner Harjinder Kaur and complainant Anil Sharma before Mediation and Conciliation Centre of this Court has been annexed as Annexure P-2. Harjinder Kaur admitted therein that she had agreed to be a surrogate mother to the child of Anil Sharma and that she would hand over the girl child namely Kashni Neeta Sharma to the complainant Anil Sharma and would cooperate with all the procedures and processes associated with the guardianship and other rights pertaining to adoption of a girl child namely Kashni Neeta Sharma by Anil Sharma complainant.

It was further settled amongst the parties that the petitioner Harjinder Kaur relinquishes all her rights as a mother towards the girl child in question and that the petitioner shall give her consent before the concerned authorities for correction/rectification of the birth certificate and shall render all assistance for obtaining passport/travel documents for the girl child namely Kashni Neeta Sharma. It was thus agreed that Anil Sharma shall have no objection for quashing of the FIR in question and shall make statement to this effect before the High Court as and when required subject to fulfilment of all the terms and conditions by Harjinder Kaur pertaining to guardianship rights, adoption procedures and migration of the girl child namely Kashni Neeta Sharma.

Vide order dated 13.9.2018, statements of Dr. Anu Sharma, sister of the complainant Anil Sharma, who is stated to be attorney of complainant Anil Sharma and of petitioner Harjinder Kaur were ordered to be recorded before Illaqa Magistrate, Panchkula. Subsequently, on 13.11.2018, the complainant Anil Sharma was directed to appear before the Illaqa Magistrate/Duty Magistrate on 16.11.2018 for the purpose of getting his statement recorded in terms of earlier order dated 13.9.2018.

Report of learned District & Sessions Judge, Panchkula dated 17.11.2018 has been received accompanied by the statement of Anil Sharma alongwith covering letter of learned Chief Judicial Magistrate, Panchkula.

Today, Mr. Manjeet Singh, Advocate, counsel for the complainant has furnished a translated version of the statement of the complainant Anil Sharma, which is taken on record. A perusal of the said statement dated 15.11.2018 of complainant Anil Sharma shows that he has

admitted the factum of compromise dated 28.11.2017 effected in Mediation and Conciliation Centre of this Court. It has specifically been stated that he had entered into compromise with all the accused. He has further stated that as per the compromise Harjinder Kaur shall be bound by her statement pertaining to extending all kinds of cooperation for correction of the birth certificate/preparation of passport and immigration documents/adoption of the girl child etc. and that in view of the said terms he has no objection for quashing of the FIR in question.

It may here be mentioned that although the petition has been filed on behalf of all the accused, it was accused/petitioner No.1 Harjinder Kaur only, who had appeared before the Mediation and Conciliation Centre of this Court alongwith the complainant Anil Sharma. However, in the compromise effected before Mediation and Conciliation Center of this Court, it has specifically been agreed that Anil Sharma shall have no objection for quashing of the FIR against all the accused. The said fact has also been endorsed in the statement dated 15.11.2018 of the complainant Anil Sharma recorded by learned Chief Judicial Magistrate, Panchkula.

Mr. Manjeet Singh, Advocate, counsel for the complainant has also stated at the bar that he has instructions to state on behalf of the complainant that he has no objection for quashing of the FIR qua all the accused.

In view of the aforesaid statements and also the report dated 15.11.2018 of learned Chief Judicial Magistrate, wherein it has been specifically opined that the parties have voluntarily entered into compromise and also in view of the settlement/agreement dated 28.11.2017,

this Court is satisfied that the parties have reached at a compromise voluntarily.

In view of the aforesaid statements and the compromise/agreement dated 28.11.2017 and in light of law laid down by Full Bench of this Court in 2007(3) RCR (Crl.) 1052 Kulwinder Singh and others Vs. State of Punjab, the present petition is allowed and FIR No.144 dated 21.6.2017 registered at Police Station Sector 14, Panchkula under Sections 384, 389 and 420 of Indian Penal Code, 1860 and all the consequent proceedings arising therefrom are hereby quashed qua the petitioner.

It is, however, clarified that the petitioner No.1 Harjinder Kaur shall be bound by the terms of the compromise and shall keep on extending all types of cooperation for effecting changes in birth entries and for preparation of documents pertaining to passport, adoption, immigration, citizenship etc. It is also clarified that in case the petitioner No.1 Harjinder Kaur is ever required to state before any authority in connection with the aforesaid requirements, the complainant shall bear all the expenses to be incurred for the transportation and other miscellaneous expenses for appearing before such authority.

The petition stands accepted in above mentioned terms.

4.12.2018

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(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking Yes / No

Whether reportable Yes / No