

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

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**CRM-M No.9782 of 2015
Reserved on:04.09.2018
Pronounced on:18.09.2018**

Paramjit Khanna

....petitioner

Versus

Inder Pal

.....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.J.S.Dadwal, Advocate
for the petitioner

Mr.Sandeep Arora, Advocate
for the respondent

ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for quashing of the Criminal Complaint No.CRL 73 dated 19.08.2006, under Sections 457,380,120-B IPC, titled as “Inder Pal vs. Sushil Kumar and another”, (Annexure P1) as well as the summoning order dated 06.07.2011(Annexure P2), vide which the petitioner was summoned to face trial under Sections 457,380,120-B IPC.

This petition is pending since 2015 and on 29.07.2015, the proceedings before the trial Court were stayed.

Brief facts of the case are that with regard to a property situated in Hira Nagar, Ludhiana, which is the joint ownership of the complainant and his brothers, a suit for partition was pending. Accused No.1 Sushil

Kumar is the son of late Charanjit Lal, who is the real brother of respondent/complainant Inder Pal and accused No.2-Paramjit Khanna is son-in-law of Charanjit Lal. It is further stated in the complaint that a compromise was effected in the suit on 04.01.2006 and the parties have taken separate possession of the property. On the night of 24/25 July, 2006, the accused persons, forcibly broke opened the locks of the property of the complainant and an FIR No.576 dated 27.07.2006 under Sections 457,380,120-B IPC was registered against both the accused persons. But no action was taken and thereafter, the impugned complaint dated 19.08.2006 (Annexure P1) was filed.

After recording the evidence, the trial Court, vide impugned order dated 06.07.2011 (Annexure P2) summoned the petitioner and co-accused Sushil Kumar, to face the trial under Sections 457, 380,120-B IPC.

Learned counsel for the petitioner submits that subsequently, on account of the pendency of the various litigations, a compromise was arrived at between the parties, during the pendency of a Civil Suit titled as “Madan Lal vs. Charanjit Lal and others”, in which father of the petitioner-Charanjit Lal and complainant Inder Pal as defendant No.2 were signatories with other co-owners.

Learned counsel for the petitioner further submits that as per the compromise, after giving all the details of the properties, held by the brothers, their respective rights with regard to the property were settled and it was consented that a final decree be passed in terms of the compromise. For the sake of brevity, the entire details are not reproduced.

Learned counsel for the petitioner submits that Clause 'F' of the compromise reads as under:

“F. That all the parties have agreed that they shall withdraw all their civil and criminal litigation filed against each other and pending in any court of law in India and also before the police and other authorities.”

It is submitted on behalf of the petitioner that it was agreed between all the parties that the complainant as well as the predecessor of the petitioner will withdraw all the civil as well as the criminal litigation pending between the parties. However, despite the aforesaid compromise, which has been followed by a decree of the civil Court, the respondent-complainant has failed to withdraw the impugned complaint.

Learned counsel for the petitioner has even drawn reference to the joint statement of the parties dated 08.01.2014, in which complainant Inder Pal was at Sr.No.8, where all the parties deposed before the Court that they will be bound by the terms of the compromise Ex.C1 and Ex.C2. Learned counsel has drawn reference to the statement of even the other signatories of the compromise to submit that it was a complete compromise between all the parties and thus, it is argued that despite having made the statement on oath, the respondent Inder Pal has not withdrawn the impugned complaint and has prayed for quashing of the same.

Reply on the behalf of the respondent dated 01.12.2017 is on record. In the reply, though, with a reference to the complaint and the summoning order in para No.1 (on merits of this reply) the factum of compromise, is admitted in Para No.3. However, it is submitted that since the offences are non-compoundable and the petitioner being the husband of Sweeti Khanna, who is not a signatory of the compromise, therefore, there is no compromise between the complainant and the wife of the petitioner.

In reply, learned counsel for the petitioner has submitted that Sweeti Khanna @ Parveen Kumari wife of the Paramjit Khanna-petitioner No.2, has also appeared before the Civil Court on 08.01.2014 and made a statement that she will be bound by the said compromise Ex.C1 and Ex.C2. Therefore, the objections raised by the respondent that she is not signatory to the compromise is against record as she was otherwise arrayed as a legal representative of Charanjit Lal, the real brother of the complainant and it is apparent from the memo of the civil Court that Sweeti Khanna, wife of the present petitioner is arrayed as defendant No.1(g) in the said compromise. Therefore, a frivolous objection is raised by the complainant-respondent that wife of the petitioner No.2 is not a signatory to the compromise or that it was not agreed that the present complaint will also be withdrawn as an outcome of the compromise, is without any basis.

Since both the parties have compromised the dispute before the Civil Court, which was followed by recording the statement of the parties and passing of a decree, distributing the property as settled between the parties, specially in view of the Clause 'F' of the compromise, and as per the statement of respondent/complainant recorded before the Civil Court on 08.01.2014, that all the parties are bound by the compromise and all the civil and criminal litigation will be withdrawn, the filing of the written statement by the respondent, at this stage, contrary to the terms and conditions of the compromise, as well as to the factual position is nothing but an act to cause undue harassment to petitioners.

Accordingly, this revision is allowed. The complaint dated 19.08.2006, under Sections 457,380,120-B IPC, titled as “Inder Pal vs. Sushil Kumar and another” (Annexure P1), as well as the summoning order

dated 06.07.2011(Annexure P2), are quashed. Respondent is directed to pay the litigation costs to the petitioners, which is assessed as ₹ 15,000/-.

(ARVIND SINGH SANGWAN)
JUDGE

18.09.2018
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Whether speaking/reasoned	Yes/No.
Whether reportable-	Yes/No