

250/3
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 15.1.2019

(1) CRM-M-14046-2010 (O&M)

Sandeep Kumar Chopra

..... Petitioner

Versus

State of Haryana and others

..... Respondents

(2) CRM-M-37654-2010 (O&M)

Ram Kishan Yadav

.....Petitioner

Versus

State of Haryana and another

..... Respondents

(3) CRM-M-707-2011 (O&M)

Ram Kishan Yadav

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.S. Mamli, Advocate for petitioner
(CRM-M-14046-2010)
Mr. Ayush Gupta, Advocate for petitioner
(CRMs-M-37684-2010 & 707-2011)

Mr. R.K.Ambavta, AAG, Haryana.

Mr. D.K.Prajapati, Advocate for
Mr. R.S. Madan, Advocate for respondent No. 2.

Mr. S.S. Dinarpur, Advocate for respondents No. 3 and 4.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

This order shall dispose of **CRM-M-14046-2010** titled as

Sandeep Kumar Chopra vs. State of Haryana and others; CRM-M-37654-

2010 titled as *Ram Kishan Yadav vs. State of Haryana and another* and *CRM-M-707-2011* titled as *Ram Kishan Yadav vs. State of Haryana and another*.

CRM-M-14046-2010

Petitioner seeks setting aside of the order dated 06.04.2010, (Annexure P-7); order dated 15.10.2010 (Annexure P-8); order dated 08.04.2010 (Annexure P-9); order dated 17.4.2010 (Annexure P-10) and order dated 17.4.2010 (Annexure P-11) passed by Additional Sessions Judge, Kurukshetra, in bail application pertaining to FIR No. 109 dated 07.03.2010 under Sections 406/420 of the Indian Penal Code, registered at Police Station City Thanesar, District Kurukshetra and further for directing the respondents to return the money of the petitioner and any other appropriate direction.

The brief facts of the case are that the present petitioner, namely, Sandeep Kumar Chopra who is an advocate by profession entered into an agreement to sell the land measuring 39 kanals 13 marlas to Madan Lal son of Suraj Bhan-respondent No. 3 and Randhir Singh son of Rishal Singh-respondent No. 4, for which he received Rs. 15.00 lacs as earnest money from the purchaser and the balance amount was to be paid at the time of sale. The agreement to sell dated 1.5.2008 (Annexure P-2) was executed by Leela Wanti and Kaushalya Devi daughters of Smt. Bholi in favour of the petitioner -Sandeep Kumar Chopra.

It comes out that the date for execution of the sale deed was subsequently extended but according the Madan Lal, mediator-Aant Ram as well as Sandeep Kumar Chopra cheated him and the sale deed was not

extended after 1.3.2010 and his earnest money of Rs. 15.00 lacs has been misappropriated.

It comes out that on account of the registration of the FIR in question, petitioner-Sandeep Kumar Chopra moved an application for grant of anticipatory bail before learned Additional Sessions Judge, Kurukshetra, who vide order dated 6.4.2010 (Annexure P-7), while noticing the contention of the complainant regarding compromise with Sandeep Kumar Chopra and Ram Kishan Yadav, who was not accused in the said case, issued a direction for his appearance along with the complainant.

It further comes out from the order dated 15.4.2010 passed by learned Additional Sessions Judge, Kurukshetra (Annexure P-8) that some arguments were heard. Ram Kishan Yadav who was not accused in the said case, was directed to pay an amount of Rs. 13,61,000/- to the complainant in the Court on the next date of hearing. On the next date, i.e., 8.4.2010, Sandeep Kumar Chopra-present petitioner and complainant put in appearance. Ram Kishan Yadav, who was not accused in the said case, undertook to pay Rs. 13,61,000/- to the complainant in the Court by 15.4.2010. The case was adjourned for remaining arguments.

Not stopping here, when the case was again taken up on 17.4.2010 (Annexure P-11), statement of Ram Kishan Yadav was recorded, who was not accused in the said case, regarding the compromise with Sandeep Kumar Chopra-accused regarding the FIR in question in which he paid Rs. 15.00 lacs to accused/petitioner Sandeep Kumar Chopra through three cheques i.e. Cheque Nos. 713778, 713779 and 713780 dated 27.2.2010 and dated 30.3.2010, amounting to Rs. 5.00 lacs each. It was

further observed that in lieu of the said payment, petitioner-Sandeep Kumar Chopra shall withdraw all the complaints filed under Sections 138/142 of the Negotiable Instruments Act, 1881 pertaining to the aforesaid cheques pending in the trial Court.

At the same time, trial Court recorded the statement of complainant-Madan Lal, who stated that he has received an amount of Rs. 15.00 lacs from the accused/petitioner namely Sandeep Kumar Chopra, on his own behalf and on behalf of Randhir Singh towards full and final settlement of their claim.

Accordingly, Ram Kishan Yadav paid Rs. 15.00 lacs to the accused/Sandeep Kumar Yadav which he further paid to the complainant-Madan Lal. It was observed that since the entire amount of cheques in question has been paid, accused/petitioner-Sandeep Kumar Chopra undertakes that he shall withdraw all the complaints filed by him against Ram Kishan Yadav under Sections 138/142 of the Negotiable Instruments Act 1881 and the case was adjourned to 20.4.2010 for further arguments.

Vide order dated 17.4.2010 (Annexure P-11), learned Additional Sessions Judge, Kurukshetra, recorded the statement of Ram Kishan Yadav on oath that he has compromised the matter with present petitioner-Sandeep Kumar Chopra, who was accompanied by his counsel. Ram Kishan Yadav has paid Rs. 15.00 lacs to accused/petitioner-Sandeep Kuamr Chopra in the Court. In lieu of this payment, accused/petitioner-Sandeep Kumar Chopra shall withdraw all the complaints under Sections 138/142 of the Negotiable Instruments Act, 1881 against the cheques in question.

It further comes out that vide order dated 20.4.2010 (Annexure P-12), passed by learned Additional Sessions, Judge, Kurukshetra, on account of the said compromise and no objection from complainant-Madan Lal, accused-petitioner namely Sandeep Kumar Chopra was granted anticipatory bail.

Petitioner has challenged the orders dated 06.04.2010, (Annexure P-7); dated 15.10.2010 (Annexure P-8); dated 08.04.2010 (Annexure P-9); dated 17.4.2010 (Annexure P-10) and dated 17.4.2010 (Annexure P-11) passed by Additional Sessions Judge, Kurukshetra, stating that these are illegal.

Heard.

Learned counsel for the petitioner states that petitioner owed only Rs. 13,61,000/- to Madan Lal-complainant and that Court compelled him to pay Rs. 15.00 lacs which he had got by way of compromise from Ram Kishan Yadav. Therefore, the aforesaid orders regarding compromise and withdrawal of the complaints under Sections 138/142 of the Negotiable Instruments Act, 1881 regarding the cheques in question are illegal.

After going through the file, I am of the view that though the FIR in question was lodged by complainant-Madan Lal against the present petitioner-Sandeep Kumar Chopra and Anat Ram. However, learned trial Court, in its zeal to settle the entire controversy, summoned Ram Kishan Yadav, who was not party to the case and not only settled the dispute between complainant-Madan Lal and the present petitioner-Sandeep Kumar Chopra but also the dispute between the present petitioner and Ram Kishan Yadav, which could have been easily avoided. It appears that the trial Court

converted the proceedings for anticipatory bail into the proceedings before the Lok Adalat to settle the two controversies not only between the parties to the case but also between the persons, who are not party to the case. Now the question is as to whether the aforesaid orders are liable to be set aside or not? Petitioner himself is a practicing advocate by profession. Moreover, he was represented by a counsel at that time. Against the amount of Rs. 13, 61,000/-, he paid Rs. 15.00 lacs to Madan Lal after taking the same from Ram Kishan Yadav in the Court regarding the cheque cases/complaints filed by him against Ram Kishan Yadav. The plea of learned counsel for the petitioner is that the aforesaid orders were passed under coercion and he was coerced by the Court to pay the money, is not substantiated from record. The petitioner was an advocate by profession and assisted by another advocate and could easily refuse the compromise. In fact, it appears that he was interested in anticipatory bail on account of the said compromise, he got the anticipatory bail vide order dated 20.4.2010, passed by learned Additional Sessions Judge, Kurukshetra (Annexure P-12).

As such, I do not find any infirmity in the order passed by learned Additional Sessions Judge, Kurukshetra dated 06.04.2010, (Annexure P-7); order dated 15.10.2010 (Annexure P-8); order dated 08.04.2010 (Annexure P-9); order dated 17.4.2010 (Annexure P-10) and order dated 17.4.2010 (Annexure P-11) passed by Additional Sessions Judge, Kurukshetra, in bail application pertaining to FIR No. 109 dated 07.03.2010 under Sections 406/420 of the Indian Penal Code, registered at Police Station City Thanesar, District Kurukshetra.

Accordingly, CRM-M-14046-2010, titled as Sandeep Kumar Chopra vs. State of Haryana and others stands dismissed.

CRM-M-707-2011 and CRM-M-37654-2010

In CRM-M-707-2011, petitioner-Ram Kishan Yadav seeks quashing of the criminal Complaint No. 23 of 2010 dated 10.4.2010 (Annexure P-5) titled as Sandeep Kumar vs. Ram Kishan Yadav under Sections 138, 142 of the Negotiable Instruments Act, 1881 pending in the Court of learned Judicial Magistrate Ist Class, Kurukshetra and further the summoning order dated 1.9.2010 (Annexure P-6), passed by learned Judicial Magistrate Ist Class, Kurukshetra, vide which petitioner had been summoned under Section 138 of the Negotiable Instruments Act, 1881.

In CRM-M-37654-2010, petitioner-Ram Kishan Yadav seeks quashing of the criminal Complaint No. 48/2010 dated 7.12.2010 (Annexure P-6), titled as Sandeep Kumar vs. Ram Kishan Yadav under Sections 138 and 142 of the Negotiable Instruments Act, 1881 pending in the Court of learned Judicial Magistrate Ist Class, Kurukshetra and further the summoning order dated 7.12.2010 (Annexure P-7), passed by learned Judicial Magistrate Ist Class, Kurukshetra, vide which petitioner had been summoned to face trial under Section 138 of the Negotiable Instruments Act, 1881.

In both the cases, complaints pertain to the cheques as mentioned above regarding which compromise was effected between the parties before learned Additional Sessions Judge, and the complainant had undertaken to withdraw the said complaints. However, the said complaints were not withdrawn. Since the offences are compoundable and the matter

was lawfully compounded before the Court, therefore, criminal Complaint No. 23 of 2010 dated 10.4.2010 (Annexure P-5) titled as Sandeep Kumar vs. Ram Kishan Yadav under Sections 138, 142 of the Negotiable Instruments Act, 1881 pending in the Court of learned Judicial Magistrate Ist Class, Kurukshetra in CRM-M-707-2011 and criminal Complaint No. 48/2010 dated 7.12.2010 (Annexure P-6), titled as Sandeep Kumar vs. Ram Kishan Yadav under Sections 138 and 142 of the Negotiable Instruments Act, 1881 pending in the Court of learned Judicial Magistrate Ist Class, Kurukshetra in CRM-M-37654-2010 stand quashed.

Accordingly, *CRM-M-707-2011 and CRM-M-37654-2010* stand allowed.

(KULDIP SINGH)
JUDGE

15.1.2019
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No