

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

CRM-M No.36190 of 2018 (O&M)

Date of decision: 21.01.2019

Raj Kumar and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ravi Chadda, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Pradeep Panwar, Advocate
for Mr. Pratham Sethi, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of criminal complaint No.11 of 2014 filed under Sections 420 read with Section 120-B of the Indian Penal Code (in short 'IPC') titled as Krishan Kumar vs Raj Kumar, etc. and for setting-aside the judgment of conviction dated 16.12.2017 vide which the petitioners were held guilty for offence punishable under Sections 420 read with Section 120-B IPC as well as order of sentence dated 20.12.2017 vide which the petitioners were sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.5,000/- each and in default of payment of fine to further undergo simple imprisonment for a period of 03 months.

Brief facts of the case are that the complainant was an

agriculturist, and he had his account with M/s Raj Kumar Satpal, Commission Agent, Anaj Mandi, Ratia and the accused No.3 was Munim/accountant over the said firm. The accused persons used to forge duplicate account books in ordinary course of business with intent to cause wrongful loss to farmers and wrongful gain to themselves. In order to cheat him, the accused persons have also prepared false and forged account books and on that basis, they have filed civil suit for recovery of Rs.8,48,528/- titled 'Raj Kumar vs Krishan Lal'. Thereafter, the Court in its judgment and decree dated 22.04.2009 has opined that the account books were not maintained in regular course of business, and it has decreed the said suit for Rs.1,95,760/ only, and the appeal thereof has also been dismissed vide order dated 09.11.2012. The complainant has submitted that in the aforesaid civil suit, he got examined the Expert qua his specimen signatures and account statement dated 02.12.1996, 01.04.1997, 02.04.1997 and J-form dated 29.04.1997, and the handwriting Expert (therein) has opined that the signatures do not tally with his specimen signatures. Further, the accused have also entered Rs.20,000/- on 12.10.2001 in their account books against his signatures, whereas he was admitted in Santok Ba Durlabh Ji Memorial Hospital, Jaipur from 03.10.2011 to 18.10.2001, against registration No.23878. The accused persons have not prepared correct records qua his dealings with their firm and they have cheated him by preparing false and forged account books.

In his preliminary evidence, the complainant has examined himself as CW1, Sh. Rajesh Kumar as CW2 and Sh. Shamsheer Singh Malik, Handwriting Expert as CW3, and he also tendered documents

Ex.C1 to Ex.C49, and thereafter, he closed his preliminary evidence on 30.07.2014. Thereafter, the trial Court vide its order dated 09.09.2014 has summoned all the three accused persons to face trial for commission of offence punishable under Sections 120-B, 420, 467, 468, and 471 IPC. On notice, accused persons appeared and obtained bail.

In the pre-charge evidence, the complainant has examined himself as CW1, Sh. Kuldeep Singh, Record Keeper as CW2, Sh. Leela Ram as CW3, Sh. Shamsheer Singh Malik, Handwriting Expert as CW4, Sh. Rajiv Dube as CW5, Sh. Salvinder Singh, Record Keeper brought case record of suit No.94/16 of 2003 decided on 22.04.2009 by Sh. Jasbir Singh, the then ACJ(SD), Ratia, and the complainant further produced Ex.CW1/A, C-2, Mark A to Mark Z, CW1/B, CW4/C-7 to C9 CW4/C-10, Mark AA, CW/4/C-45 to CW/4/C-49 into his evidence, and thereafter, he closed his pre-charge evidence vide his statement dated 16.09.2016.

In his after-charge evidence, the complainant examined himself as CW1, and tendered documents, Mark W to Mark Z and thereafter, he closed his after-charge evidence vide statement dated 29.04.2017.

Thereafter, statements of the accused persons under Section 313 Cr.P.C. were recorded wherein they have denied each and every incriminating evidence put against them and they have stated that the alleged entries are not forged, rather the complainant has obtained money against the same, however, they lead evidence in their defence.

The accused have examined Sh. Anil Kumar Gupta,

Handwriting Expert as DW1 and Sh. Prem Chand as DW2, and they have tendered documents Mark-A into their evidence, and Ex.DW1/A to Ex.DW1/P, Ex.DA to DG and thereafter, they closed their evidence on 05.12.2017.

The trial Court, after hearing learned counsel for the parties and after appreciating the evidence on record, convicted and sentenced the petitioners/accused under Section 420 read with Section 120-B IPC.

At present, the petitioners have filed an appeal, which is pending before the Court of Additional Sessions Judge, Fatehabad and during pendency of the appeal, the petitioners as well as respondent No.2/complainant have entered into a compromise and vide order dated 23.08.2018, the parties were directed to appear before the trial Court for getting their statements recorded in support of the compromise.

The complainant – Krishan Kumar has made a statement that he has entered into a compromise with the petitioners – Raj Kumar and Kuldeep Kumar in the presence of respectables and panchayat and the same is voluntarily and without any pressure. It is further stated that he has no objection if the petition filed by the petitioners is allowed as by entering into the compromise, the relation between the parties will improve and they will live in peace and harmony. Similar statement is made by the petitioners.

The trial Court in pursuance to the statements got recorded by the parties has recorded its satisfaction that the compromise entered into between the parties is without any pressure or coercion and due influence and the same is genuine.

In ***“Sube Singh and another vs State of Haryana and***

another”, 2013 (4) RCR (Criminal) 102, a Division Bench of this Court has held that even after conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers under Section 482 Cr.P.C, can compound the offence.

Considering the fact that the parties have decided to bury their *inter se* dispute and further decided to live in peace and also in view of the report of the trial Court dated 18.09.2018, the present petition is partly allowed by upholding the judgment of conviction and the sentence awarded to the petitioners is reduced to the period already undergone by them, however, the imposition of fine is uphold, however, subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Fatehabad.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.01.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No