

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

**CRM-M No.38322 of 2018
Date of Decision: 03.05.2019**

DILIP SAROJ

.....Petitioner

Versus

STATE OF PUNJAB AND ANR

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shakti Kaushik, Advocate for
Mr. Deepak Bora, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Amit Chaudhary, Advocate
for respondent No.2.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No. 0078 dated 18.07.2018, under Sections 420 of the Indian Penal Code and Sections 66 C & 66 D of IT Act, 2000, registered at Police Station Sujanpur, District Pathankot along with all consequential proceedings arising therefrom on the basis of compromise dated 28.03.2018 (**Annexure P-1**) entered into between the parties i.e. petitioner as well as respondent No.2.

As per the allegations in the FIR, complainant-respondent No.2 was cheated through online fraud. The complainant had received a phone call from Vishal Saxena, who has committed a fraud by stating that he is from Paytm Customer Care and complainant won lottery worth Rs. 5, 40, 000/-. Then Vishal Saxena asked the Adhar Card, Voter ID, Pan Card and Bank Details from the complainant, he shared unknowingly and transferred Rs. 96,000/- as online

process amount for receiving the lottery price in different instalments in different accounts on different dates. Thereafter, complainant called Vishal Saxena several times for transfer of the lottery amount. However, no positive response was received by the complainant, thereafter complainant approached the police officials.

During investigation it was found that complainant had deposited Rs. 96,000/- in different bank accounts. It was also found that a false account was running in the name of the complainant which was not opened by the complainant and the same was opened by some forgerer after taking the Aadhar Card, Pan Card, Photograph and document bearing the signature of the complainant through whatsapp. Several accounts in which the money was transferred, belong to the petitioner. Also revealed during investigation that petitioner namely, Dilip Saroj called the complainant by representing himself as Vishal Saxena as Paytm Customer Care Executive.

Heard learned counsel for the parties and perused the paper book.

On 24.01.2019, while issuing notice of motion the following order was passed by this Court:

“Learned State Counsel has filed a short reply by way of affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police, Dhar Kalan, District Pathankot on behalf of respondent No.1-State in the Court today. The same is taken on record. A copy thereof has been supplied to the opposite side.

Perusal of the abovesaid affidavit reveals that the matter has been compromised between the petitioner and respondent No.2.

In view of above, let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 14.02.2019 to get their statements recorded with reference to the compromise, if any, entered into between them. Learned Illaqa

Magistrate/trial Court is requested to record the statements of all accused, complainant/injured and victim, if any and submit a report along with the recorded statements to this Court before the next date of hearing containing the following information:-

(i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof.

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender.

List before this Court on 27.03.2019 for further consideration. Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and compliance. ”

In terms of above order, the statements of the parties were recorded by learned Chief Judicial Magistrate, Pathankot and submitted a report dated 16.02.2019. The operative part of the same reads as under:-

'Keeping in view all aspects and statements of complainant and the accused, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is voluntary and without any threat or force'

A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence and no one has been declared as proclaimed offender in this case.

On instructions from ASI Satish Chand, learned State Counsel stated that he has no objection in case the present FIR as well as all other consequential proceedings are quashed on the basis of the compromise effected between the parties. Even before this Court also, there is no objection by either of the parties in case the present FIR is quashed.

In view of the above, this Court is fully convinced that the offences are entirely personal in nature and there is no public funds involved in this case, thus quashing of FIR in question along with all consequential proceedings on the basis of compromise would bring peace and harmony to secure the ends of justice. Consequently, the present petition is allowed and the aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioner.

May 03, 2019
rashmi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>