

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

CRM-M-47147-2018

Date of decision: May 06, 2019

Harjinder Singh and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. H.B.S. Baidwan, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

In the instant petition, the petitioners have sought for quashing of order dated 22.12.2015 passed by the Additional Chief Judicial Magistrate, Rupnagar, whereby the petitioners have been declared as proclaimed persons in FIR No.93 dated 30.6.2012 under Sections 406, 420 IPC registered at Police Station Morinda, District Rupnagar and further prayed for quashing/cancellation of the above said FIR, on the basis of the compromise.

As per the averments made in the petition, both the petitioners were declared proclaimed persons vide order dated 22.12.2015 and, thereafter, they have filed this petition through their power of attorneys as the matter stands compromise.

Vide order dated 26.10.2018, the parties were directed to appear before the trial Court for recording their statements. The trial Court has recorded the statements of the special power of attorneys of both the petitioners, who have stated that the matter has been settled/compromise with the complainant and the similar statements have been made by both, the complainants/respondents No.2 and 3, respectively.

The trial Court has recorded a finding that the compromise Ex.PX seems to be genuine. Even otherwise, a perusal of the FIR show that it was a private dispute with regard to the agreement of sale of the agriculture land.

A perusal of the judgment dated 23.7.2018 passed by the Additional Chief Judicial Magistrate, Rupnagar show that the other two persons, namely, Ranjit Kaur and Iqbal Kaur, who have faced a full length trial, were acquitted by the Court holding that the prosecution has failed to prove the case against the accused persons and they are entitled to be acquitted of the charge.

Counsel for the petitioner has relied upon 2011(2) RCR (Criminal) 453, Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, wherein Hon'ble Division Bench of this Court has held that even in case where an accused was declared a proclaimed offender and has not faced the trial but co-accused have been acquitted, the prosecution of the co-accused can be quashed under the inheritance power of the High Court under Section 482 Cr.P.C.

The trial Court has submitted a report that the compromise is valid and genuine between the petitioners and complainant/victim. In view of the judgment of Sudo Mandal's case (supra), this petition is allowed, the impugned order dated 22.12.2015 declaring the petitioners proclaimed persons is set aside and the FIR No.93 dated 30.6.2012 under Sections 406/420 IPC is quashed, subject to the condition that both the petitioners will deposit an amount of Rs.50,000/- each under a head of the Government Treasury to be nominated by the trial Court/Illaquia Magistrate before consigning the file to the record room.

The petitioners are directed to deposit the above mentioned amount within a period of three months from today, failing which this petition will deemed to be dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

May 06, 2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No