

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

**CRM-M No. 9551 of 2015
Date of Decision:-06.11.2019**

Rajender and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. K.S. Malik, Advocate
for the petitioners.

Mr. Sukhdeep Parmar, DAG, Haryana.

None for respondent No.2.

MANOJ BAJAJ J.(Oral)

Petitioners have filed this petition under Section 482 Cr.P.C. seeking quashing of FIR No.112 dated 23.4.2009, under Section 379 IPC, registered at Police Station Kalanaur, District Rohtak, and all subsequent proceedings arising therefrom.

The brief facts leading to the present petition are that upon a complaint given by Savitri Devi (respondent No.2), the impugned FIR was registered for the offence of theft punishable under Section 379 IPC as the accused persons, namely, Rajinder, Jitender (Jeetu), Naresh, Bejinder (Pappu), Jatil, Satil, Suresh (Surinder), Banti, Dhano, Kamlesh, Sunita,

Mukesh, Krishna and Rajesh Kumari with the help of combine, tractors and thrasher had allegedly stolen approximately 200 mann (1 mann equal to 40 kilograms) of wheat crop from her field measuring 5-½ acres.

Learned counsel for the petitioners contends that the petitioners and the complainant are descendants of one Brahmanand and dispute between them in respect of the land in question was pending before the Civil Court. He has invited the attention of the Court to the compromise arrived at between the parties before the Appellate Court, in an appeal bearing C.A. No.43 of 07.4.2012/07.1.2015 titled 'Jatin Grewal vs. Ranbir Singh and another'. It is pointed out that the statement of respondent No.2 (complainant) was clear, specific and unconditional regarding the compromise, wherein she has agreed to withdraw all the pending cases after withdrawal of the appeal filed by Jatin Grewal (petitioner No.4). The said compromise reads as under :-

“Stated that in appeal case titled as Jatin vs. Ranbir, our compromise has been effected. After withdrawal of the appeal filed by Jatin, we will also withdraw all the pending cases.”

As a consequence, the appeal was also withdrawn by the said appellant on the same day and the order dated 09.2.2015 passed by the Appellate Court reads as under :-

“File taken up today on an application moved by applicant-respondent Ranbir stating therein that the matter has been compromised between the parties and prayed that statement of the parties may kindly be recorded. Let statement of the parties be recorded.

Respondents Ranbir and Savitri Devi have made joint statement that in the appeal titled Jatin versus Ranbir, the matter has been compromised between the parties. They further stated that they will withdraw all the pending cases after withdrawing the present appeal by the appellant. Statement to this effect of the respondent recorded. They have been duly identified by their counsel.

Appellant Jatin vide his separately recorded statement stated that the parties to the suit have reached at the end of the compromise and so he withdraws the appeal. Appellant has been duly identified by his counsel.

Heard. In view of the statement of the appellant, the present appeal is hereby dismissed as withdrawn. Lower Court record be sent back alongwith the copy of the order. File be consigned to the record room after due compliance.”

He submits that thereafter an application was moved under Section 320 Cr.P.C. for compounding the offence in case FIR No.112 dated 23.4.2009, under Section 379 IPC, registered at Police Station Kalanaur, District Rohtak and the notice of the same was issued by the trial Court to the complainant. However, the complainant refused to compromise the matter. As per her statement, she stated that in case the accused pay her compensation for the house, land or plot, only then she would be ready for compromising the matter. However, on refusal of the accused, she also refused to compromise the matter. The statement made by the complainant before the Magistrate on 10.3.2015 reads as under :-

“Stated that in the case titled as Jatin vs. Ranbir before the Court of Sh. Sandeep Kumar Duggal, Ld. ADJ, Rohtak, on dated 09.2.2015, I had made a statement that if the accused gave me compensation for my house, land or plot, then I am ready for compromise but on refusal by the accused persons, I refused to compromise the matter. Before this, the accused persons made compromise many times but they backout from their statements.”

Learned counsel for the petitioners submits that the original compromise does not contain any such condition that any compensation is to be paid to the complainant. He further submits that the complainant has retracted from that compromise without any reason and the petitioners are being harassed to face the prosecution despite compromise. He submits that the appeal brought by the petitioners had already been withdrawn and therefore it is a fit case where considering the conduct of the complainant the FIR in question deserves to be quashed. Learned counsel for the petitioners has relied upon **Ruchi Agarwal vs. Amit Kumar Agrawal** 2004(4) RCR (Criminal) 949 and **Ram Lal and others vs. State of Haryana and another** 2008(2) RCR (Criminal) 823.

After issuing notice of motion, reply by way of affidavit of Pawan Kumar, Deputy Superintendent of Police, Rohtak was filed, wherein, it is mentioned that after completion of investigation, the Final Report under Section 173 Cr.P.C. was submitted against the accused Jatinder @ Jeetu, Rajender son of Risal Singh, Naresh son of Hawa Singh, Satil son of Jogender, Suresh son of Hawa Singh and Banti @ Vinit son of Naresh.

It may be noticed here that during the pendency of the trial, an application was filed by complainant for summoning additional accused under Section 319 Cr.P.C., which was allowed and additional accused, namely, Bijender alias Pappu son of Hawa Singh, Jatil son of Joginder, Dhanno wife of Hawa Singh, Kamlesh wife of Jogender, Sunita wife of Naresh, Mukesh wife of Suresh, Krishna wife of Rajender and Rajesh wife of Jitender were also summoned. The history of civil litigation is also narrated in the reply filed by the State.

Neither the complainant is being represented nor any reply has been filed on her behalf.

I have heard learned counsel for the parties.

After hearing learned counsel for the parties, this Court finds that there was no reason for the complainant to retract from the compromise, particularly, when she availed the benefit of withdrawal of appeal against her by one of the petitioners. It is apparent that complainant is playing hide and seek with the Court and has set up a false and frivolous ground for retracting from the compromise as in her statement no compensation whatsoever was demanded by her at the stage of compromise. Further it is not a case where the complainant has pleaded any kind of fraud or misrepresentation on the part of the accused which induced her to enter into compromise.

Considering the above, particularly the conduct of the complainant, this Court finds it a fit case for exercising the inherent powers under Section 482 Cr.P.C. Resultantly, the FIR No.112 dated 23.4.2009,

under Section 379 IPC, registered at Police Station Kalanaur, District Rohtak alongwith subsequent proceedings arising therefrom are quashed.

November 06, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No