

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

**CRM-M No.25384 of 2019
Date of Decision: 12.07.2019**

GAURAV BANSAL AND ORS

.....Petitioners

Versus

STATE OF PUNJAB AND ANR

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Nikunj Dhawan, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Ms. Kulwinder Kaur, 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.60 dated 30.03.2017, under Sections 420 ,506 and 120-B of the Indian Penal Code, registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib along with all consequential proceedings arising therefrom on the basis of compromise dated 13.05.2019(P-3) entered into between the parties i.e. petitioners as well as respondent No.2.

As per the allegations in the FIR, complainant-respondent No.2 entered into a partnership in the firm namely, M/s Karam Steel Corporation vide partnership deed dated 01.04.2012. As per the partnership deed, the complainant-respondent No.2 was having 33% share in the said firm. Petitioners No. 1 and 3 were the main working partners in the firm and were also accountable for the loss and profit of other partners. Petitioners No. 1 and 3

with the malafide intent never gave the accounts of the firm to the complainant-respondent No.2 inspite of the repeated requests. The complainant-respondent No.2 also came to know that petitioners No. 1 and 4 have been unfair to even previous partners due to which they had retired from the firm. In the month of Feb, 2014, complainant-respondent No.2 requested the petitioners to render her accounts of the firm. The petitioners have manipulated the actual record/account of the firm with the malafide intention to cause loss to complainant-respondent No.2. Upon this petitioners, raised hue and cry and respondent No.2/complainant decided to quit the firm and to withdraw her capital from the firm. On 28.02.2014 all the petitioners came to the house of the complainant/respondent No.2 at Khanna and assured that her share would be paid to her and accounts of the firm shall also be rendered. Petitioners informed complainant/respondent No.2 that they have appointed Sarv Shri Achhar Dev Angrish and Sh.Hukminder Shahi as the arbitrators for settling the dispute between them. The complainant/respondent No.2 believed the version of the petitioners and signed the stamp papers and other blank documents. The husband of the complainant/respondent No.2 also signed the same. The complainant/respondent No.2 never authorised the petitioners to transfer Rs. 60,00,000/- through RTGS in her account in March, 2014. On 16.04.2014, the petitioners visited the house of the complainant-respondent No.2 and showed the statement of account of the firm for the period from 01.04.2013 to 31.03.2014 and transfer of amount of Rs. 60,00,000/- and also showed balance of Rs.61,05,000/- payable to the complainant-respondent No.2. No satisfactory explanation was given by the petitioners. The statement of account contained illegal, wrong and fictitious entries regarding payment of some amount to the

complainant/respondent No.2 on different dates. The petitioners prepared a self serving false balance sheets with the malafide intention to create false evidence against the complainant/respondent No.2. The petitioners did not pay any amount to the complainant-respondent No.2 on the alleged date of retirement deed dated 28.02.2014. Petitioners prepared a false retirement deed and allegedly shown that complainant/respondent No.2 has relinquished all her rights in the firm for a total amount of Rs.1,21,05,000/- only. False entries of loss were also prepared by the petitioners. The petitioners have illegally debited the amount of income tax and TDS paid by firm for the assessment year 2010-11 from the account of respondent No.2. Petitioners denied the actual value of the said firm. Therefore, the petitioners committed the offence of breach of trust, cheating, forging and fabricating the account books.

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

On 30.05.2019, while issuing notice of motion the following order was passed by this Court:

“ Learned counsel for the petitioners contends that matter has been compromised between the parties.

Notice of motion.

On the asking of the Court, Mr. C.L. Pawar, Senior DAG Punjab accepts notice on behalf of respondent No.1-State.

Ms. Kulwinder Kaur, Advocate, who is present in the Court, appears and files Power of Attorney on behalf of respondent No.2 and the same is taken on record. She acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned counsel for the respondents during the course of the day.

Petitioners shall file their affidavit before learned trial Court that there is no other criminal case pending against them and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

In view of above, let the parties be appeared before the Court of learned Illaqa Magistrate/trial Court on 12.06.2019 to record their statements with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the 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?
- (vi) Whether any of the petitioner(s) is/are previous convict or not?

List before this Court on 12.07.2019 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?

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

In terms of above order, the statements of the parties were recorded by learned Judicial Magistrate First Class, Amloh and submitted a report dated 17.06.2019. The operative part of the same reads as under:-

' The compromise effected between the parties is genuine and bonafide.”

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.

Learned counsel for the petitioners states that another case bearing CRM-M-25469 of 2019 for quashing of FIR was filed, and the same has been allowed by the co-ordinate Bench of this Court vide order dated 12.07.2019.

On instructions from SI Balwinder Singh, learned State Counsel has acknowledged the above fact and further 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 offences are entirely personal in nature and there is no public funds involved , 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 petitioners.

July 12, 2019
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(MAHABIR SINGH SINDHU)
JUDGE

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