

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

**CRM-M No. 30542 of 2019
Date of Decision:-20.11.2019**

JOHNY @ SAMRAT SONI

.....Petitioner

V/S

STATE OF PUNJAB AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Abhay Kumar Sharma, Advocate
for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
for respondent No. 1.

Mr. Rajnikant Upadhyay, Advocate for
Mr. Gursharan Singh, Advocate
for respondent No. 2/complainant.

ARUN KUMAR TYAGI,J. (ORAL)

The present petition has been filed for quashing of FIR No.120 dated 01.06.2019 registered under Sections 380 and 436 of the Indian Penal Code, 1860 (for short, "IPC") at Police Station City Phagwara, District Kapurthala and all consequential proceedings arising therefrom on the basis of a compromise dated 20.06.2019 having been effected between the parties.

The above-said FIR was lodged by Ashwani Jain alleging that on 30.05.2019 at about 10.00 PM he closed the shop and at about 1.15 AM midnight, got a phone call from the neighbors of his shop who informed him that fire smoke was coming out of his shop which might have caught fire on which he rushed to his shop and called his friends and informed the police.

After extinguishing the fire he found that amount of Rs. 40,000/- to 50,000/- was missing from small cash safe while amount of Rs. 5 lacs was missing from cash chest. He had the suspicion that accused-Johny @ Samrat Soni (the present petitioner) employed by him on 10.04.2019 having managed to keep additional keys of the locks had committed theft and put their shop on fire.

The petitioner has filed the present petition for quashing of the FIR on the grounds that on 20.06.2019 with the intervention of respectables, the matter has been amicably compromised between the parties and they have resolved their disputes and differences.

The Coordinate Bench of this Court, while issuing notice of motion directed recording of statements of the parties vide order dated 19.07.2019 relevant part of which reads as under:-

“Notice of motion for 20.11.2019.

At this stage, Mr. Gursharan Singh, Advocate has appeared on behalf of respondent No.2 and has filed power of attorney, which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 4.9.2019 for recording their statements qua compromise.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

The Illaqa Magistrate/trial Court shall also furnish the following information:-

1. Whether there is any other accused other than the petitioner, arrayed in this petition?
2. Whether there is any other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition?”

In terms of aforesaid order, Sub Divisional Judicial Magistrate, Phagwara has recorded the statements of both the parties and submitted

report dated 22.10.2019. The operative part of the same reads as under:-

“ From the statements recorded in the court, it appears that the compromise effected between the complainant and accused is without any pressure, threat or coercion.”

Sub Divisional Judicial Magistrate, Phagwara has also mentioned that there is no other aggrieved party and no other accused.

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. Learned State Counsel has no objection in case the aforesaid FIR along with all subsequent proceedings arising therefrom is quashed on the basis of the compromise effected between the parties in this case.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working

in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to **Narinder Singh Vs. State of Punjab : 2014 (2) RCR (Criminal) 482** and **State of Madhya Pradesh Vs. Laxmi Narayan and others : 2019(2) RCR (Criminal) 255**.

The offences involved are overwhelmingly and predominantly of private character arising in the course of employment of the petitioner under respondent No.2. The parties have resolved their entire dispute among themselves. The settlement has been arrived immediately after the alleged commission of offence and the matter is still under investigation.

In view of the facts and circumstances of the case the possibility of conviction is remote and bleak and continuation of this case will put the accused to great oppression and extreme injustice would be caused to him if the case is not quashed. Therefore, FIR No.120 dated 01.06.2019 registered under Sections 380 and 436 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala is quashed along with all consequential proceedings arising therefrom qua the petitioner.

The petition is allowed accordingly.

20.11.2019

Rajeev (rvs)

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No