

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

CRM-M-31336-2019

Date of Decision : 30.10.2019

Shivdeep Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr.Munish Raj Chaudhary, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab.

ARUN KUMAR TYAGI, J. (ORAL)

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') praying for quashing of FIR No. 152 dated 29.04.2019 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station City Barnala, District Barnala (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 17.07.2019 (**Annexure P-2**).

Complainant Gurjant Singh submitted written complaint to Deputy Superintendent of Police, Barnala alleging that he paid amount of Rs.50,000/- to the petitioner Shivdeep Singh in April, 2018 in his IELTS Centre Barnala for coaching for clearing IELTS examination held on 27th October, 2018 at Jalandhar. On 28th October, 2018 the petitioner informed the complainant that his daughter has cleared IELTS test with overall 7 bands. On assurance by the petitioner, the complainant agreed to send his daughter to Australia and paid

amount of Rs.2,50,000/- on 12.11.2018 and Rs.5,30,000/- in January, 2019 to the petitioner. On demand by the petitioner for an amount of Rs.60,000/- for rectification of IELTS Certificate of his daughter on which inadvertently photo of some other girl has been fixed, he paid amount of Rs. 50,000/- to the petitioner. Subsequently, the complainant came to know that examination was not of his daughter and the petitioner had taken her to some unknown building and planned a drama in connivance with other persons for examination of his daughter.

On the basis of the complaint, the above said FIR was registered. The petitioner filed the present petition for quashing of the FIR on the grounds that now with the intervention of respectables, the matter has been amicably compromised between the parties and they have resolved their disputes and differences.

This Court, while issuing notice of motion on 24.07.2019, passed the following order:-

“ *Notice of motion.*

At this stage, Mr. G.S. Khokhar, Advocate, has appeared and filed vakalatnama on behalf of respondent No.2. On the asking of the Court, Mr. Sidakmeet Singh Sandhu, AAG, Punjab, has accepted notice on behalf of respondent(s)-State. Copies of the paper book along with documents have been supplied to the said counsel.

Service is complete.

Learned counsel for the petitioner as well as learned counsel for respondent No.2 state that compromise has been effected between the parties.

Now the parties are directed to appear before the learned trial Court where the case is pending on 30.08.2019 and to get recorded their statements regarding compromise and after recording their statements, learned trial Court, is directed to send the report regarding the genuineness of compromise on or before the date fixed i.e.30.10.2019.

A copy of this order be sent to learned trial Court, through fax, for compliance. ”

In terms of aforesaid order, learned Chief Judicial Magistrate, Barnala

has recorded the statements of both the parties and submitted report dated 17.08.2018. 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 genuine, without any pressure and coercion or undue influence.”

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 present case is overwhelmingly and predominantly of civil character and has arisen out of a commercial transaction. 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.152 dated 29.04.2019 registered under Sections 420 and 120-B of the IPC at Police Station City Barnala, District Barnala (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioner.

The petition is allowed accordingly.

(ARUN KUMAR TYAGI)
JUDGE

30.10.2019

Kavneet Singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No