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

CRM-M-37012 of 2019

Date of decision: October 03, 2019

S.K. Garg Narwana @ Surinder Kumar Garg

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Arun Beniwal, DAG Haryana.

Mr. Amit Sharma, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 482 of Code of Criminal Procedure, 1973, for quashing of FIR No.0141 dated 28.02.2018, under Sections 383, 420, 506, 120-B of the Indian Penal Code, 1860 (for short 'IPC') (Sections 342, 384, 386, 467, 468, 471 of IPC added later on), registered at Police Station Sector-5, Panchkula, District Panchkula, Haryana, along with all other consequential proceedings, on the basis of compromise dated 27.08.2019, qua the petitioner.

On 04.09.2019, while issuing notice of motion, following order was passed by this Court:-

*“Contends that matter has been compromised
between the parties.*

Notice of motion.

On the asking of the Court, Mr. Arun Beniwal, DAG Haryana accepts notice on behalf of respondent No.1-State.

Mr. Amit Sharma, 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. He 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.

Petitioner shall file his affidavit before learned trial Court that there is no other criminal case pending against him 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 **11.09.2019** 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 17.09.2019 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 compliance of above order, statements of both sides, i.e. petitioner as well as complainant-respondent No.2 were recorded by learned Chief Judicial Magistrate, Panchkula (for short 'CJM') who submitted the report dated 11.09.2019 and operative part of the same reads as under:-

“In considered opinion of this court statements of the parties are bona fide and are not the result of any pressure/coercion. The compromise effected between the parties appears to be genuine and valid, as per their statements. The compromise in question is between petitioner in Hon'ble Punjab and Haryana High Court, Chandigarh namely Sh. S.K. Garg Narwana, and respondent No.2 in the Hon'ble Punjab and Haryana High Court, Chandigarh namely Sh. Ajay Vir Sehgal. Further in view of the affidavit furnished by Sh. S.K. Garg Narwana

i.e. document Ex.PY, no other criminal case is pending against him. Further insofar as the parties present in the court are concerned, no one is proclaimed offender.”

Despite the above factual position, reply to the petition by way of affidavit dated 25.09.2019 of Sh. Gurmail Singh, DSP, State Crime Branch, Panchkula, on behalf of State of Haryana was filed, and taken on record, in which the factum of compromise between the parties as well as recording of their statements, on 11.09.2019, has been acknowledged, but opposed the petition while submitting that investigation is still going on.

The matter was heard at length in the pre-lunch session and when this Court was inclined to allow the petition with costs, learned State counsel requested to post the matter after lunch for seeking further instructions and to file an additional affidavit of the DSP concerned.

In the post-lunch session, the matter has again been taken up and an additional affidavit dated 03.10.2019 of Sh. Gurmail Singh, DSP, State Crime Branch, Panchkula has been filed, which is taken on record and relevant part of Paragraph-3 of the same reads as under:-

“During the course of investigation in the present case, the petitioner appeared before the Commissioner of Police, Panchkula on 05.03.2018 and 07.03.2018 and had joined the investigation. In the investigation of the present case, the Special Investigation Ateam found that the petitioner who is a designated Senior Advocate practicing in this Hon'ble Court and had appeared against the complainant in a civil case and civil appeal relating to the

land dispute which is the subject matter of the present case. During the investigation conducted by the Special Investigation Team headed by the answering-respondent, the allegations leveled by the complainant against the petitioner have not been corroborated by any material and documentary evidence. Hence, the allegations leveled against the petitioner have not been found established during the investigation of the present case. Therefore, the answering-respondent has recommended the filing of the Cancellation Report in the present case in favour of the petitioner.”

A perusal of the extracted portion of Paragraph-3 of the affidavit clearly reveals that after investigation in the matter, nothing incriminating has been found against the petitioner to substantiate the allegations levelled by the complainant-respondent No.1, thus, a cancellation has been recommended by the SIT.

Since the matter has been compromised between the parties with their free consent and no public funds or tranquility are involved in the present case, rather the matter is entirely personal in nature. Even the cancellation has also been recommended by the SIT, thus, in the opinion of this Court, the pendency of the criminal proceedings against the petitioner would not only be wastage of the precious time of the Court concerned, but against the interest of justice.

In view of the facts and circumstances discussed hereinabove, present petition is allowed. Impugned FIR No.0141 dated 28.02.2018, under Sections 383, 420, 506, 120-B of IPC (Sections

342, 384, 386, 467, 468, 471 of IPC added later on), registered at Police Station Sector-5, Panchkula, District Panchkula, Haryana along with all consequential proceedings arising out of the same, qua the petitioner, are hereby quashed and set aside.

No order as to costs.

(MAHABIR SINGH SINDHU)
JUDGE

October 03, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No