

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

**CRM-M No.42898 of 2019 (O&M)
Date of Decision: 12.12.2019**

Amit Malhotra

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Naveen Sharma, Advocate for the petitioner.

Mr. V.G.Jauhar, Senior Deputy Advocate General, Punjab
for respondent No.1/State.

Mr. Manish Singla, Advocate for
Mr. Naresh Jain, 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.409 dated 20.12.2018 (**P-1**), under Section 420 of the Indian Penal Code and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Division No.5, District Police Commissionerate, Ludhiana along with all consequential proceedings arising therefrom on the basis of compromise dated 27.08.2019 (**P-2**), entered into between the parties i.e. petitioner as well as respondent No.2.

The case of the prosecution is that complainant-Rakesh Kumar Singla (respondent No.2), on the pretext of sending his son-Navi Singla abroad, paid an amount of ₹ 10,63,480/-. Also alleged that when the Visa was refused to his son, complainant demanded money back from the petitioner, but he failed to return the amount in question after executing one agreement and giving security cheque of Rs.8 Lakh. Hence, the present case.

This Court, while issuing notice of motion on the previous date of hearing i.e. 04.10.2019, passed the following order:-

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

Notice of motion.

On the asking of the Court, Mr. H.S. Multani, AAG Punjab accepts notice on behalf of respondent No.1-State.

Mr. Naresh Jain, Advocate, who is present in the Court, appears and files vakalatnama 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 22.11.2019 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 05.12.2019, 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 aforesaid order, the statements of both the parties were recorded by learned Additional Chief Judicial Magistrate, Ludhiana and submitted a report dated 02.12.2019. The operative part of the same reads as under:-

' In view of the above referred statements, after hearing the parties and going through the record, report is submitted as follows:-

(i) Statements of the parties are bona fide and are not result of any pressure or coercion etc., in any manner.

(ii)Compromise effected between the parties is genuine and valid.

(iii)Accused and complainant of this case are parties to the compromise.

(iv)Presently, no other case is pending against either of the parties.

(v)No person, involved in this case, has been declared proclaimed offender.

(vi)Petitioner of above petition is not previous convict. '

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. Even before this Court also, there is no objection by either of the parties in case the FIR in question is quashed.

Learned State Counsel, on instructions from the police official present in the Court, has submitted that he also has no objection in case the aforesaid FIR as well as all other consequential proceedings are quashed on the basis of the compromise effected between the parties in this case.

In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not involve any public funds and 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 petitioner.

December 12, 2019

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(MAHABIR SINGH SINDHU)
JUDGE

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