

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

248

CRM-M-46165-2019

Date of decision: 26.11.2019

Mohinder Singh and another	Versus	Petitioners
State of Punjab and others		Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. P.S. Mirpur, Advocate
for the petitioners.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondents No.1 and 2.

Mr. Navdeep Kalair, Advocate
for respondents No.3 and 4.

ARUN KUMAR TYAGI, J (ORAL)

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of FIR No.0320 dated 01.10.2018 registered under Sections 420 of the Indian Penal Code, 1860 (for short, "the IPC") and 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station City Rajpura, District Patiala (**Annexure P-2**) along with all consequential proceedings arising therefrom in view of the compromise dated 18.04.2019 and 07.05.2019 (**Annexure P-3 Colly.**).

Briefly stated, the facts giving rise to the filing of the present petition are that complainant-Tarsem Singh submitted written complaint to Senior Superintendent of Police alleging therein that accused-Mohinder Singh and Baljeet Singh had cheated him for an amount of ₹2,90,000/- on fraudulent assurance of sending him to the foreign country. Enquiry was conducted on the written complaint and it was found that accused-Mohinder Singh and his brother Baljeet Singh

promised the complainant for getting work permit on salary of about ₹38/40 lakhs and demanded ₹2,60,000/- i.e. ₹1,30,000/- for him and ₹1,30,000/- for his nephew-Jaspreet Singh (*Bhanja*). Complainant-Tarsem Singh and his nephew gained entry in Malaysia but did not get any job or work. Accused-Baljeet Singh locked them in a room and maltreated them. On return, matter was compromised under which amount of ₹1,35,000/- was to be returned but Mohinder Singh did not comply with the same. Mohinder Singh and Baljeet Singh had induced the complainant and Jaspreet Singh to pay ₹2,90,000/-. On the basis of the complaint, the above said FIR was registered.

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

This Court, while issuing notice of motion on 30.10.2019, passed the following order:-

"Learned counsel for the petitioners has while referring to Annexure P-3 contended that a compromise has been effected between the parties and prayed for quashing of FIR No.0320 dated 01.10.2018 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station City Rajpura, District Patiala (Annexure P-2) and all the subsequent proceedings arising therefrom.

Notice of motion for 21.11.2019.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of respondents No.1 and 2.

At this stage, Mr. Navdeep Kalair, Advocate has appeared on behalf of respondents No.3 and 4 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 07.11.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing containing the following information :-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.*

Trial Court/Illaq Magistrate is directed to send the report in time and also to send copy of the report to the Registrar (Judicial) of this Court so as to reach this Court before the date of hearing fixed. "

In terms of aforesaid order, learned Sub Divisional Judicial Magistrate, Rajpura has recorded the statements of both the parties and submitted report dated 18.11.2019 inter alia mentioning that it transpires from the statements of the parties recorded by her that they have arrived at compromise with their free volition, without any inducement, threat, promise, coercion or undue influence from any quarter. Apparently, the compromise has been arrived at to eliminate bitterness and acrimony between the parties and in order to restore cordial relations.

In her report learned Sub Divisional Judicial Magistrate,

Rajpura has also mentioned that there are two accused persons and two victims/complainants in the present case, that as per statement of the accused no other case is pending against them and that none of the accused was declared proclaimed offender.

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 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 commercial transaction. The parties have resolved their entire dispute among themselves. The settlement has been arrived at initial stage as 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 petitioners to great oppression and extreme injustice would be caused to him if the case is not quashed. Therefore, FIR No.0320 dated 01.10.2018 registered under Sections 420 of the IPC and 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station City Rajpura, District Patiala (**Annexure P-2**) is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition is allowed accordingly.

26.11.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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