

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

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CRM-M-46358-2019

Date of Decision :16.12.2019

Azadvinder Singh @ Azad Singh

.....Petitioner

V/S

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Diwan S. Adlakha, Advocate
for the petitioner.

Mr. Arun Kaundal, D.A.G. Punjab
for respondent No.1-State.

Mrs. Shashi Ghuman, Advocate
for respondent No.2.

ARUN KUMAR TYAGI,J. (ORAL)

The petitioner-Azadvinder Singh @ Azad Singh has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No.92 dated 18.11.2017 registered under Sections 406 and 420 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Mukandpur, District S.B.S. Nagar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 19.06.2017 (**Annexure P-2**) effected with respondent No.2-Nachhattar Kaur.

The above said FIR was registered on the complaint of respondent No.2-Nachhattar Kaur in which she has alleged that around 7 months ago Azad Singh, Agent obtained an amount of Rs.7,00,000/- from her for sending her to New Zealand. She gave this money to him

after selling her jewelry and by mortgaging her house. But neither Azad Singh sent her abroad nor he returned her money. Azad Singh had also taken money and passport from many other persons for sending them abroad and not returned the money and passport to them.

The petitioner has 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.

Vide order dated 05.12.2019 passed by this Court recording of statements of the private parties was directed and relevant part of the same reads as under:-

“Mrs. Shashi Ghuman, Advocate has put in appearance on behalf of complainant/respondent No. 2 and filed power of attorney which is taken on record.

Learned Counsel for the complainant/respondent No. 2 has admitted the factum of compromise. Payment of Rs.1,10,000/- has been made to the complainant through her Counsel in the Court today.

Adjourned to 16.12.2019.

Accordingly, the parties are directed to appear before the trial Court/Illaq Magistrate on 09.12.2019 or any other date convenient to the Court 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. Current stage of the case.*

The trial Court is further 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 also directed to send the report in time so as to reach this Court before the date of hearing fixed.”

In terms of aforesaid order, learned Judicial Magistrate Ist Class, S.B.S. Nagar has recorded the statements of both the parties and submitted report dated 10.12.2019. The relevant part of the same reads as under:-

“In compliance of the directions passed by the Hon'ble Punjab and Haryana High Court complainant Nachatar Kaur and accused Azadwinder Singh @ Azad Singh along with their respective counsels appeared before this court on 09.12.2019.

Statement of Nachatar Kaur (complainant) was recorded. She has stated that the matter between her and the accused party has been compromised. She admitted the compromise Ex.CA. She further stated that the said compromise has been arrived with the accused without any pressure or coercion. Before recording her statement, complainant was orally informed that if there is any type of coercion or undue influence on her, she can refuse to make the statements to which she replied in the negative.

Accused Azad Singh @ Azadwinder Singh has stated that he has compromised the matter with the complainant. He also admitted compromise Ex.CA. He further submitted that there is no other case pending between the parties.

Considering these circumstances, it appears that the compromise between the parties has been effected without any coercion or undue influence, and the parties have entered into compromise voluntarily. Report of SHO PS Mukandpur was called and even the statement of IO/ASI Joginder Singh was recorded.

Apropos to all the queries, it is respectfully submitted as under:-

1. *Number of persons arrayed as accused in FIR.*

Only one accused namely Azadwinder Singh @ Azad Singh is arrayed as an accused in the present FIR, who has not been arrested till today.

2. *Whether any accused is proclaimed offender?*

Proclamation against present accused Azadwinder Singh has been effected and the case is pending for 13.12.2019 for awaiting the presence of accused.

3. *Whether the compromise is genuine, voluntary and without any coercion or undue influence?*

It appears that the compromise between the parties has been effected without any coercion or undue influence, and the parties have entered into compromise voluntarily.

4. *Whether the accused persons are involved in any other case or not?*

As per the statement of IO and report of SHO no other case is pending against accused Azad Singh @ Azadwinder Singh.

5. *Current stage of the case.*

For awaiting presence of accused Azadwinder Singh.”

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and gone through the relevant record.

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 **Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052; Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482 and State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019(2) RCR (Criminal) 255.**

A perusal of the report of learned Judicial Magistrate Ist Class, S.B.S. Nagar clearly reveals that the matter has been compromised by 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.

The present case is overwhelmingly and predominantly of private character and has arisen out of commercial transaction. The parties have resolved their entire dispute among themselves. The compromise has been arrived at between the parties at the initial stage.

In view of the facts and circumstances of the case the possibility of conviction of the petitioner is remote and bleak and continuation of this case will put the petitioner to great oppression and extreme injustice will be caused to the petitioner if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.92 dated 18.11.2017 registered under Sections 406 and 420 of the IPC at Police Station Mukandpur, District S.B.S. Nagar (**Annexure P-1**) is quashed

along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

16.12.2019

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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