

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

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**CRM-M-47593-2019
Date of decision: 11.12.2019**

Surya Parkash Shukla

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, AAG, Haryana
for respondent No.1.

Mr. Ram Krishan Rana, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-Surya Parkash Shukla has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.143 dated 12.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Faridabad Central, District Faridabad (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise affidavits dated 05.11.2019 and 19.07.2019 (**Annexures P-3 & P-4**) given by respondent No.2-Nishant Kumar, Managar, M/s DHTC Logistics Limited.

Respondent No.2-Nishant Kumar, Branch Manager of DHTC Logistics Limited, 428, DLF Prime Towers, F-79 & 80, Okhla Phase-I, New Delhi submitted written complaint to Chowki Incharge, Sector-15-A, Faridabad alleging therein that accused-Surya Parkash Shukla, Branch Manager of Faridabad Branch of the company had

taken money from the company by doing fake bookings. The complainant company came to know about this fact at the time of recovery of money from the party that accused-Surya Parkash Shukla had issued forged bill (bilty). No luggage of their party was loaded for any destination. Forged bill (bilty) was prepared regarding 10-12 vehicles. The estimate of the amount is around Rs.10-12 lakhs. Till that date, they could trace fraudulent transactions of about Rs.10 lakhs. Head office had been asking for accounts since last one month but accused-Surya Parkash Shukla could neither provide proof of delivery nor could recover money from the party. On enquiry, it came to their notice that Surya Parkash Shukla had taken money many times but did not book the transaction for the party. On the basis of the complaint, the above said FIR was registered.

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 07.11.2019 passed by this Court recording of statements of the private parties was directed and the same reads as order:-

"Learned counsel for the petitioners while referring to Annexure P-3 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.143 dated 12.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Faridabad Central, District Faridabad and all subsequent proceedings arising therefrom.

Notice of motion for 02.12.2019.

On the asking of the Court, Mr. Vivek Saini, D.A.G. Haryana accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Ram Krishan Rana, Advocate has appeared on behalf of respondent No.2 and admits the factum of compromise.

Copies of the paper book supplied to the learned Counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 20.11.2019 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 to this Court before the date of hearing fixed."

In terms of aforesaid order, learned Additional Chief

Judicial Magistrate, Faridabad has recorded the statements of the parties and submitted report dated 27.11.2019. The relevant part of the same reads as under:-

".....The requisite report is submitted as under point-wise:-

- i) There is only one person namely Mr. Surya Parkash Shukla arrayed as an accused in the instant FIR bearing no.143 dated 12.03.2019 under Sections-406/420/467/468/471/201 IPC, P.S. Central Faridabad and Section-120-B IPC has been dropped in the course of the investigation.*
- ii) No accused is a proclaimed offender in the instant case.*
- iii) The statement of the complainant-Nishant Kumar reveals that the compromise/settlement arrived at between the complainant and the accused is quite genuine and voluntarily and the same is without any coercion or undue influence.*
- iv) No other case is found to be registered against accused Surya Parkash Shukla.*
- v) In the instant case, copies of challan have already been supplied to the accused and the case is at the stage of consideration on charge.*
- vi) As per the statement of the investigating officer, there is no other victim/complainant except for Mr.*

Nishant Kumar."

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 *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 : 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 private character and has arisen out of commercial transactions. The parties have resolved their entire dispute among themselves. The settlement has been arrived at between the parties while the case is at 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 would be caused to the petitioner if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.143 dated 12.03.2019 registered under Sections 420, 406 and 120-B of the IPC at Police Station Faridabad Central, District Faridabad (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom qua the petitioner.

The petition is allowed accordingly.

11.12.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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