IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31168-2017
Decided on: 12.03.2020

Harish and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana

ARVIND SINGH SANGWAN J. (Oral)

The petition is for quashing of FIR No. 178, dated 26.05.2015 under Sections 420, 467, 471, 120-B IPC Police Station Sector-5, Panchkula, District Panchkula registered at the instance of respondent No.2-Punjab National Bank, Retail Asset Branch, Panchkula through its Chief Manager.

Learned Counsel for the petitioner submits that during the investigation, the petitioners were granted anticipatory bail, vide order dated 29.11.2016 passed in CRM-M-32287-2016, primarily on the ground that the petitioners have repaid the entire loan amount.

Learned counsel for the petitioner relied upon the certificate issued by Punjab National Bank Branch Sector-10, Panchkula dated 8th June, 2016 vide which it is certified that term loan (Car) account of Vishnu Kumar son of Sh. Ganga Prashad has been closed and nothing is due towards loan amount and another certificate regarding petitioner No.1 Harish Son of Sh. Mohan Lal Garg in which it is stated that the account is closed and nothing is due towards this loan amount.

Considering the fact that the matter has been compromise between the parties were directed to appear before the Mediation and Conciliation Centre of this Court vide dated 29.11.2018.

The mediator has recorded the statement of Rakesh Kumar Khanna Senior Manager, Punjab National Bank Branch Sector-10, Panchkula. The operative part of the statement reads as under:-

> *"That one FIR No.178 dated 26.05.2015 under Section 420, 467, 471, 120-B IPC was registered at P.S. Sector-5,Panchkula againstHarish son of Mohan Lal Garg and Mohan Lal Garg son of Late Sh. Banarsi Dass for obtaining a loan of Rs. 11 lacs from the Bank. Harish was the principal borrower and Mohan Lal Garg was the guarantor. Another Loan of Rs. 9.25 lacs was obtained by one Vishnu Kumar in which Harish aforesaid was the guarantor. Both the aforesaid persons i.e. Harish and Mohan Lal Garg have now repaid the amount of Rs. 11 lacs and Rs. 9.25 lacs mentioned above. Consequently NOC has also been issued by the Bank. There is nothing due as on today against the aforesaid the persons i.e. the petitioners in CRM No. M-31168 of 2017 qua the FIR in question."*

Similar statements were made by both the petitioners that they have repaid the loan amount of Rs.11 lacs and Rs.9.25 lacs to the complainant Punjab National Bank.

Learned State Counsel on instructions from ASI Surinder Singh submits that has not disputed the fact accepts for Punjab National Bank there is no other complainant/victim in this FIR. Learned State counsel has, however, submitted that one of the allegation was that the petitioners have not acknowledged a hypothecation certification on the RC of the vehicles which were financed by the Punjab National Bank and that on account an FIR was registered.

However, it is not disputed that loan amount stand paid to the Bank and Bank has no grievance left with the petitioner.

"As per the Full Bench judgment of this Court in **"Kulwinder Singh and others vs State of Punjab", 2007 (3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone."

Accordingly, the present petition is allowed, the FIR No.178 dated 26.05.2015 registered under Sections 420, 467, 471, 120-B IPC at Police Station Sector-5, Panchkula, registered is hereby quashed qua the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

12.03.2020
vishal/priyanka

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