

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

**CRM-M No.26207 of 2020
Date of Decision:-29.10.2020**

Krishan Kumar Saini

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

Mr. Siddharth Goyal, Advocate
for respondent No.2.

Through Video Conferencing

JASGURPREET SINGH PURI J.(Oral)

The present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.1202 dated 30.11.2015, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Hisar City, District Hisar (Annexure P-3) and all consequential proceedings arising thereto on the basis of compromise arrived at between the parties (Annexure P-4) in Civil Revision No.24 of 2017.

The controversy involved in the present case was that respondent No.2, namely Om Parkash s/o Mohar Singh, who was employed as a Gardner in Municipal Caadarsh Postal Employees Cooperative Urban (S.E.) T & C Limited, Hisar and Municipal Council Hisar with a prayer tht

he could not repay the amount of loan due to illness and upon which some recoveries have been ordered against him.

During pendency of the said civil suit, the petitioner Krishan Kumar Saini, authorized person of the Hisar Adarsh Postal Employees Co.op. Urban (S.E.) T & C Society Limited, Hisar appeared as DW2 and tendered his affidavit Ex.DW1/A. Ultimately, the said civil suit was dismissed vide order dated 03.11.2011. Thereafter, respondent No.2-Om Parkash filed first appeal before the learned Additional District Judge, Hisar. That appeal was although dismissed on 30.4.2015 by the lower Appellate Court but a finding was recorded in para 19 of the said judgment that the petitioner who had deposed as witness had tendered into evidence a false document and therefore the liberty is granted to the plaintiff to initiate criminal proceedings against the petitioner for the above said act.

Thereafter, a compromise has been effected between the petitioner and respondent No.2 on 15.1.2020 vide Annexure P-4. Thereafter, the petitioner filed a Civil Revision No.24 of 2017 challenging the aforesaid finding contained in para 19 of the judgment of learned lower Appellate Court dated 30.4.2015. During the pendency of the civil revision, compromise was entered into by petitioner and respondent No.2 vide Annexure P-4 on 15.1.2020 and based upon the compromise, this Court in the aforesaid revision petition set aside the findings recorded in para 19 of the judgment passed by the learned lower Appellate Court. The order of this Court passed in Civil Revision No.24 of 2017, decided on 06.2.2020 is annexed as Annexure P-5 with the present petition.

Learned counsel for the petitioner has submitted that in view of

the fact that the findings contained in para 19 of the judgment of learned Lower Appellate Court, from which the criminal proceedings arose and the present FIR was registered, has been set aside by this Court and therefore pendency of the criminal proceedings against the petitioner are bad in law. He has further submitted that apart from that since the compromise has been effected between both the parties and it will be in the interest of justice to quash the FIR in question as well as consequential proceedings arising therefrom as no useful purpose would be served by continuing the criminal proceedings against the petitioner.

When the present case was came up for hearing on 04.9.2020 notice of motion was issued and this Court also directed all the parties to appear before the Illaqa Magistrate/trial Court for recording of the statement in the context of the compromise and the Illaqa Magistrate/Trial Court was also directed to submit its report with regard to genuineness of the compromise viz-a-viz number of accused persons involved in this case and whether any of the accused has been declared proclaimed offender or not on or before the adjourned date.

The report has been received from Shri Manoj Dahiya, Judicial Magistrate 1st Class, Hisar dated 14.9.2020 in which he has stated that after being satisfied the statements of complainant Om Parkash as well as accused Krishan Kumar were recorded and that in this case the affected person is complainant Om Parkash and accused Krishan Kumar and as per the report no accused has been declared proclaimed offender and that in the considered view of the Court, the compromise was effected voluntarily and without any pressure.

The aforesaid report of learned Judicial Magistrate 1st Class, Hisar dated 14.9.2020 is reproduced as under :-

“I have the honour to submit that in compliance of order passed in **CRM-M-26207-2020 dated 04.09.2020** passed by Lordship, Hon'ble Judge Shri Raj Mohan Singh, undersigned has recorded statements of complainant Om Parkash as well as accused namely Krishan Kumar after being satisfied that the above mentioned persons were deposing voluntarily and out of their free will regarding the compromise. In this case affected person is complainant Om Parkash and accused namely Krishan Kumar. As per the record no accused has been declared proclaimed offender in this case.

I have also heard the parties and counsels and gone through the statements of the parties as well as compromise and in the considered view of this Court the compromise has been effected voluntarily and without any pressure and maintaining peace and relations.

Original statements of complainant Om Parkash and statement of accused Krishan Kumar are annexed with this letter.

Report is submitted, please.”

The State has filed reply to the petition and in the reply it is stated that the factual position has been narrated and it has been prayed that the petition may be disposed of qua respondent No.1.

Mr. Sidhardh Goel, Advocate, who appeared for respondent No.2 states that he has no objection in case the present petition is allowed

and the FIR alongwith consequential proceedings arising therefrom is quashed by this Court in view of the compromise effected between the parties and in view of the report which has been submitted by the learned Magistrate.

I have heard learned counsel for the parties.

The law with regard to the quashing of FIR on the basis of compromise is longer *res integra*. The power under Section 482 Cr.P.C. is to be exercised not in a casual or in a mechanical manner and is rather to be exercised in a manner so as to elicitate the cause of substantial justice. There can be no straight jacket formula for the purpose of quashing of FIR on the basis of compromise. However, extreme caution has to be taken in cases of quashing of FIR and consequential proceedings based on compromise. In case of serious and heinous crime, such power should not be exercised, however, in other cases, where the Court is satisfied that no useful purpose would be served in case the proceedings are allowed to be continued and rather it would not be in the interest of justice to do so, the proceedings can be considered for being quashed on the basis of compromise.

In the present facts and circumstances of the case the criminal proceedings have been emanated from para 19 of the judgment passed by lower Appellate Court Hisar dated 30.4.2015 whereby liberty was granted to the plaintiff to initiate criminal proceedings.

Revision was filed challenging the aforesaid paragraph in Civil Revision No.24 of 2017 before this Court and vide Annexure P-5 the findings recorded in para 19 were set aside. Apart from the order passed

vide Annexure P-5, settlement/agreement has been effected between the parties and therefore considering the totality of circumstances of the case, this Court is of the opinion that in case the criminal proceedings are continuing against the petitioner, serious prejudice would be caused to the petitioner. This Court is of the opinion that it is a fit case where the FIR may be quashed on the basis of compromise between the parties as no useful purpose would be served in case the criminal proceedings are ordered to be continued.

Apart from that, a perusal of the report of learned Judicial Magistrate 1st Class, Hisar would show that the compromise has been effected voluntarily between the parties and without any pressure, coercion, undue influence.

Therefore, keeping in view the law laid down by the Full Bench judgment of this Court in **Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052** and the law laid down by Hon'ble Supreme Court in **Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543**, the present petition is allowed and the FIR No.1202 dated 30.11.2015, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Hisar City, District Hisar, is ordered to be quashed qua petitioners.

29/10/2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No