

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

256+119

(1)

CRM-M-7237-2018

Date of decision: 29.01.2020

Gurwinder Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

(2)

CRM-M-3471-2020

Chander Kant

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Bhupinder Kumar Gupta, Advocate
for the petitioners in CRM-M-7237-2018.

Mr. Pranav Handa, Advocate
for the petitioner in CRM-M-3471-2020.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No.1 in both the cases.

Mr. Garvit Kalra, Advocate
for respondent No.2 in both the cases.

ARUN KUMAR TYAGI, J (ORAL)

This order disposes of **CRM-M-7237-2018** titled **Gurwinder Singh and another Vs. State of Punjab and another** filed by petitioners-**Gurwinder Singh and Mukesh Sharma** and **CRM-M-3471-2020** titled **Chander Kant Vs. State of Punjab and another** filed by petitioner-**Chander Kant** under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.115 dated 19.07.2014 registered under Sections 381, 408, 418, 420 and 468 read with Section 34 of the Indian Penal Code, 1860 and Sections 65, 66,

66-B, 66-C, 72 and 74 of the Information Technology Act, 2000 at Police Station Division No.3, District Jalandhar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 09.10.2017 and 10.12.2019 (**Annexure P-2**) effected with respondent No.2-**Rajesh Chopra**.

The above said FIR was registered on statement of respondent No.2/complainant-Rajesh Chopra alleging that accused/petitioners Gurwinder Singh, Mukesh Sharma and Chander Kant who were employed in their firm M/s Evergreen Publication India Ltd. committed theft of graphics and animations designed by their firm and hard disc containing important data of their firm and sold the same to their rival publications/firms named in the complaint and also carried out jobs of their rival publications/firms in the office premises of firm M/s Evergreen Publication India Ltd. and thereby committed the offences of theft, cheating, criminal breach of trust etc. attracting above referred statutory provisions.

The petitioners have filed these petitions for quashing of the FIR on the grounds that now with the intervention of relatives and respectables, the matter has been amicably compromised between the parties.

In **CRM-7237-2018** titled **Gurwinder Singh and another Vs. State of Punjab and another**, the Coordinate Bench of this Court, while issuing notice of motion on 20.02.2018, passed the following order:-

"This petition has been filed seeking quashing of FIR No.115 dated 19.07.2014, registered at Police Station Division No.3, District Jalandhar, for the alleged

commission of offences punishable under Sections 381, 408, 418, 420, 468, 34 IPC and Sections 65, 66, 66-B, 66-C, 72, 74 of the Information Technology Act, 2000, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondents no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Bhupender Beniwal, learned Assistant Advocate General, Punjab, accepts notice on behalf of respondent no.1.

A copy of the petition be handed to him during the course of the day.

Adjourned to 11.05.2018.

Respondent no.2 be served by way of normal process.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned trial Court/Area Magistrate up to 19.03.2018 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases pending against the petitioners."

In compliance with the above said order, learned Additional Chief Judicial Magistrate, Jalandhar had recorded the statements of the parties and submitted report dated 20.03.2018 according to which respondent No.2/complainant-Rajesh Chopra made the statement that he had arrived at compromise with petitioners/accused Gurwinder Singh and Mukesh Sharma voluntarily and without any pressure or coercion and he had no objection if the FIR

in question is quashed.

On 20.12.2018, learned counsel for respondent No.2/complainant requested for short adjournment to get a fresh statement of respondent No.2 recorded specifying therein that not only Rajesh Chopra but the firm itself does not have any objection in quashing of the FIR and respondent No.2 was again directed to appear before the trial Court/Illaq Magistrate to get his statement recorded.

However, the parties did not appear before the trial Court/Illaq Magistrate and requested for time to get their statements recorded. Vide order dated 17.12.2019, the parties were again directed to appear before the trial Court/Illaq Magistrate for recording of their statements.

In compliance with order dated 17.12.2019, learned Additional Chief Judicial Magistrate, Jalandhar recorded the statements of all the affected parties and sent report dated 18.01.2020. The relevant part of the same reads as under:-

"On 10.01.2020, respondent no.2 namely; Rajesh Chopra son of Subash Chander Chopra appeared and made statement that he is one of the Director of the Evergreen Publication India Ltd and he is also authorized by Directors vide resolution dated 02.12.2019 (annexure-A). He further stated that he has arrived at compromise with petitioners/accused namely; Gurwinder Singh, Mukesh Kumar and Chander Kant voluntarily and without any pressure from any side. He has no objection, if above-said FIR no.115 dated 19.07.2014 is quashed by the Hon'ble High Court. Similar statements were recorded by both the petitioners/accused.

Keeping in view all aspects, statements of the both the parties, the requisite information, as sought for, is submitted as under:

I) The compromise is genuine, voluntary and without and coercion or undue influence.

II) There is no other person involved in the

occurrence."

In **CRM-M-3471-2020** titled **Chander Kant Vs. State of Punjab and another** this Court, while issuing notice of motion, passed following order dated 29.01.2020:-

"Petitioner-Chander Kant has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0115 dated 19.07.2014 registered under Sections 381, 408, 418, 420 and 468 read with Section 34 of the Indian Penal Code, 1860 and Sections 65, 66, 66-B, 66-C, 72 and 74 of the Information Technology Act, 2000 at Police Station Division No.3, Jalandhar, District Commissionerate Jalandhar in view of the compromise arrived at with respondent No.2-Rajesh Chopra.

Notice of motion.

On asking of the Court, Mr. Sandeep Singh Deol, D.A.G., Punjab accepts notice on behalf of respondent No.1-State

At this stage, Mr. Garvit Kalra, Advocate has appeared and filed his memorandum of appearance on behalf of respondent No.2 and has admitted the factum of compromise.

Copies of the paper book have been supplied to the learned counsel for the respondents.

Learned counsel for the parties have also stated that in compliance with order dated 20.02.2018/20.11.2019/17.12.2019 passed by this Court statements of the parties regarding the compromise have already been recorded in CRM-M-7237-2018 and the present petition may also be heard along with the same.

To be heard with CRM-M-7237-2018."

A perusal of the report of learned Additional Chief Judicial Magistrate, Jalandhar 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 compromise effected between the parties in

this case.

I have heard learned Counsel for the petitioners, 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 judgment of this Court in ***Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR***

(Criminal) 1052 and judgments of Hon'ble Supreme Court in ***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.***

The offences involved in the present case are overwhelmingly and predominantly of private character arising from commercial transactions/private employment and do not have any social impact. The parties have resolved their entire dispute amongst 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 petitioners is remote and bleak and continuation of this case will put the petitioners to great oppression and extreme injustice would be caused to the petitioners if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.115 dated 19.07.2014 registered under Sections 381, 408, 418, 420 and 468 read with Section 34 of the Indian Penal Code, 1860 and Sections 65, 66, 66-B, 66-C, 72 and 74 of the Information Technology Act, 2000 at Police Station Division No.3, District Jalandhar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petitions are allowed accordingly.

29.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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