

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

281

CRM-M-48777-2019

Date of decision: 27.01.2020

Balwinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondent No.1.

Ms. G.K. Sidhu, Advocate for
Mr. Gautam Thapar, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioner-**Balwinder Singh** has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.14 dated 15.03.2019 registered under Section 420 of the Indian Penal Code, 1860 (for short "the IPC") and Section 24 of the Immigration Act, 1983 at Police Station Sadar, District Pathankot (**Annexure P/1**) along with all consequential proceedings arising therefrom in view of the compromise dated 14.06.2019 (**Annexure P/2**) effected with respondent No.2-**Sukhdev Singh**.

The above said FIR was registered on written complaint of respondent No.2/complainant-Sukhdev Singh submitted to Senior Superintendent of Police, Pathankot. In the complaint Sukhdev Singh alleged that petitioner/accused-Balwinder Singh cheated him and dishonestly induced him to give an amount of Rs.3 lakhs on

03.06.2016, Rs.5 lakhs on 15.06.2016 and Rs.2 lakhs and Rs.17 lakhs thereafter on fraudulent assurance of sending his son Amanpreet Singh to America but the accused neither sent his son to America nor returned the amount.

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 and they have resolved their differences.

The Coordinate Bench of this Court, while issuing notice of motion on 18.11.2019, passed the following order:-

"The petitioner seeks quashing of FIR No.14 dated 15.3.2019 registered at Police Station Sadar, District Pathankot under Section 420 IPC and Section 24 of Immigration Act, 1983, and all consequential proceedings arising therefrom, on the basis of compromise.

Notice of motion.

Mr. R.S. Sidhu, AAG, Punjab accepts notice on behalf of the respondent-State and Mr. Gautam Thapar, Advocate accepts notice on behalf of complainant-respondent No.2 and admits the factum of compromise.

Parties are directed to appear before the trial Court/Illaqua Magistrate, Pathankot, on 16.12.2019 for getting their statements recorded regarding the compromise. After recording the statements of the parties, learned trial Court/Illaqua Magistrate shall transmit its report as regards genuineness of the compromise between the parties to this Court well before the next date of hearing.

Adjourned to 27.1.2019."

In compliance with the above said order, learned Judicial Magistrate 1st Class, Pathankot has recorded the statements of both the parties and submitted report dated 18.12.2019. The relevant part of the same reads as under:-

"It is respectfully submitted that as per direction of Hon'ble Punjab and Haryana High Court, on 16.12.2019, Sukhdev Singh complainant as well as accused Balwinder

Singh appeared in respect of FIR No.14 dated 15.03.2019 under Sections 420 IPC and Section 24 of Immigration Act registered with PS Sadar, District Pathankot.

The identities of the complainant as well as the accused were ensured and their ID proofs are annexed with their statements.

Complainant Sukhdev Singh suffered a statement that he has compromised the matter with the accused Balwinder Singh out of his free will and consent and that the said compromise is not outcome of any undue influence, coercion, promise or pressure. He also placed on record copy of compromise dated 14.06.2019 as mark A.

From the statements of the parties and their demeanor in the court, the compromise appears to be genuine, voluntary and without any undue influence or pressure."

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

A perusal of the report of learned Judicial Magistrate 1st Class, Pathankot 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.

The present case is overwhelmingly and predominantly of private/personal character arising out of alleged 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 would be caused to the petitioner if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.14 dated 15.03.2019 registered under Section 420 of the IPC and Section 24 of the Immigration Act, 1983 at Police Station Sadar, District Pathankot (**Annexure P/1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

27.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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