

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

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**CRM-M-48073-2019
Date of decision : 19.02.2020**

Pawan Bhatia and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Arun Kaundal, DAG, Punjab
for respondent No.1-State.

Mr. Shubham Mehta, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Pawan Bhatia** and **Rajesh Bhatia** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C') for quashing of FIR No.0007 dated 07.01.2014 registered under Sections 406 and 420 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Sadar, Amritsar (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise (**Annexure P-2**) effected with respondent No.2-**Kapil Vohra**.

Briefly stated, the above said FIR has been registered on complaint submitted by respondent No.2-Kapil Vohra to the Commissioner of Police, Amritsar. In the complaint, respondent No.2-Kapil Vohra alleged that he has sold clothes to accused-Pawan Bhatia @ Bobby and Rajesh Bhatia owner of M/s Ritika Prints and he was to

take amount of Rs.1,32,000/- for Ishwar Shakti Fabric and Rs.3,75,000/- for Bhanu Fabric. When he asked accused Pawan Bhatia @ Bobby and Rajesh Bhatia to pay his money, they refused to pay money and threatened him. On his complaint Assistant Commissioner of Police (North) conducted inquiry and submitted his report stating that for joining the investigation, letter was issued to Pawan Bhatia @ Bobby and Rajesh Bhatia but they did not arrive. Thereafter, letter was issued but Pawan Bhatia and Rajesh Bhatia were not found at home and their father Surinder Bhatia disclosed that due to loss suffered in the firm M/s Ritika Print, the said firm got bankrupt and his sons have to return money of many other companies and they have left the house for the last four months and he does not have any information about them. Pawan Bhatia and Rajesh Bhatia by purchasing material worth of Rs.5,07,000/- from Kapil Vohra and not making the payment had committed fraud and cheating.

The petitioners have filed the present petition for quashing of the FIR on the grounds that the parties have settled the matter and decided to put an end to litigation between them and live in peace.

Vide order dated 13.11.2019, this Court directed the private parties to appear before the trial Court/Illaq Magistrate on 21.11.2019 or any other date convenient to the Court for recording their statements with regard to compromise/settlement and directed the Trial Court/Illaq Magistrate to submit a report before the next date of hearing i.e. on 06.12.2019 regarding the genuineness and voluntary nature of the compromise.

In compliance with the above said order, learned Additional Chief Judicial Magistrate, Amritsar has recorded the statements of both the parties and submitted report dated 02.12.2019.

The relevant part of the same reads as under:-

“Pursuant to the order dated 13.11.2019 passed by the Hon'ble High Court in CRM-M-48073 of 2019, it is submitted that complainant Kapil Vohra and accused persons namely Pawan Bhatia and Rajesh Bhatia appeared in Court for getting their statements recorded in case bearing FIR No.0007 dated 07.01.2014 under Sections 406 and 420 IPC, registered at Police Station Sadar, Amritsar. This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any pressure, undue influence or coercion and the compromise is genuine, voluntarily and without any coercion or undue influence. That following is the requisite information, as directed :-

- 1. That two persons have been arrayed as accused in the FIR.*
- 2. That no accused has been declared as proclaimed offender in the present case.*
- 3. That the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. That accused Pawan Bhatia and Rajesh Bhatia are not involved in any other case.*
- 5. That Challan in the present case has not been presented in the Court till date.”*

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 Additional Chief Judicial Magistrate, Amritsar 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 offences involved in the present case are overwhelmingly and predominantly of private character and do not have any social impact. The parties have resolved their entire dispute. The compromise has been arrived at between the parties at the initial stage. The compromise will restore cordial relations between the parties and contribute to peace and harmony in the society. In view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak. 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.0007 dated 07.01.2014 registered under Sections 406 and 420 of the IPC at Police Station Sadar, Amritsar (**Annexure P-1**) is quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

19.02.2020

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(ARUN KUMAR TYAGI)
JUDGE

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