

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

258

CRM-M-48913-2019
Date of decision: 17.01.2020

Bikram Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. T.P.S. Bhatti, Advocate
for the petitioners.

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

None for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-**Bikram Singh and Surinder Singh** have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.51 dated 07.03.2019 registered under Sections 406, 420, 506 and 120-B of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Samrala, District Ludhiana (**Annexure P/1**) along with all consequential proceedings arising therefrom in view of the compromise dated 08.04.2019 (**Annexure P/2**) effected with respondent No.2-**Kashmira Singh**.

The above said FIR was registered on complaint of respondent No.2-Kashmira Singh who alleged that Vikram Singh and Surinder Singh sons of Hari Singh were doing commission agent work in his village under the name and style of M/s Zimidara Trading Company. They allured him that there is nothing in agriculture work, he should sell his land and invest his money in their commission agent

work, they would give him good returns every month along with principal amount. He sold some portion of his land and gave Rs.5,00,000/- to Vikram Singh on 17.11.2008 and Vikram Singh issued him a receipt in this regard and told him that he would give him returns at the rate of 18% per annum. Vikram Singh started giving him returns every month at the rate of 18% per annum and told him that if he would invest more money in their company then returns are higher and they would give him returns at the rate of 24% per annum. He gave Rs.8,00,000/- to Vikram Singh and Vikram Singh issued a receipt in the name of his wife Baljinder Kaur on 08.12.2008. They gave him returns for some time but afterwards they started harassing them and gave excuses in paying returns to them. When he involved respectable persons then Vikram Singh told him that his account had been transferred to commission agent Surinder Singh and now he shall pay him returns and Surinder Singh also gave nod for this and gave receipts of Rs.5,50,000/- and Rs.8,00,000/- on 30.04.2014. Surinder Singh had given them returns till April, 2015 only but thereafter Surinder Singh stopped paying them returns as promised. They approached Surinder Singh again and again that they have to perform marriage of their daughter and if Surinder Singh did not want to pay returns then principal amount of Rs.13,50,000/- might be returned to them. But both Vikram Singh and Surinder Singh refused to pay anything to them and gave threats to kill them. They came to know that the above said accused persons had also embezzled hard earned money of several other poor persons.

The petitioners have 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.

This Court, while issuing notice of motion on 18.11.2019, passed the following order:-

"Learned counsel for the petitioners while referring to Annexure P-2 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.51 dated 07.03.2019 registered under Sections 406, 420, 506 and 120-B of the Indian Penal Code, 1860 at Police Station Samrala, District Ludhiana and all subsequent proceedings arising therefrom.

Notice of motion for 17.01.2020.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of respondent No.1-State. Copy of the paper book has been supplied to the learned State counsel.

The private parties shall appear before the Illaqa Magistrate on 02.12.2019 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. The Illaqa Magistrate is directed to submit a report before the next date of hearing containing the following information :-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. Current stage of the case.*

The Illaqa Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The Illaqa Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed."

In compliance with the above said order, learned Sub Divisional Judicial Magistrate, Samrala has recorded the statements of both the parties and submitted report dated 15.01.2020. The relevant part of the same reads as under:-

"2. Statement of complainant Kashmira Singh son of Nahar Singh has been recorded wherein he has stated that he had compromised with each other voluntarily.

3. From the statement, it appears that compromise has been voluntarily entered into between the parties. The compromise appears to be genuine and without any pressure or coercion.

4. As desired, the report along with statement of complainant Kashmira Singh son of Nahar Singh and statement of accused Bikram Singh and Surinder Singh both are son of Hari Singh and their Aadhar Cards are submitted for your kind consideration."

I have heard learned Counsel for the petitioners and learned State Counsel 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 Sub Divisional Judicial Magistrate, Samrala 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 character. 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 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.

Consequently, FIR No.51 dated 07.03.2019 registered under Sections 406, 420, 506 and 120-B of the IPC at Police Station Samrala, District Ludhiana (**Annexure P/1**) is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition is allowed accordingly.

17.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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