

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

**CRM-M-8572-2018(O&M)
Date of decision:-25.2.2020**

Naresh Rathi @ Balram Sharma

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.S.K. Verma, Advocate
for the petitioner.

Mr.Kuldeep Sharma, DAG, Haryana.

Mr.M.R. Chaudhary, Advocate
for respondents No.2 to 5.

H.S. MADAAN, J.

By way of moving the present petition under Section 482 Cr.P.C., petitioner Naresh Rathi @ Balram Sharma craves for quashing of FIR No.527 dated 9.7.2015, under Sections 420, 467, 468, 471/34 IPC, registered with Police Station City, Sirsa and subsequent proceedings arising therefrom on the basis of compromise deed dated

7.9.2017 effected between the parties.

Briefly stated, the facts of the case are that FIR in question was registered on the basis of written complaint submitted by complainant Veer Singh son of Sh.Mani Ram, resident of village Daiyad, Tehsil and District Fatehabad to Superintendent of Police, Fatehabad. *Inter alia*, he had contended that Naresh Rathi @ Balram Sharma is a gangster, who had taken Rs.2.5 lakhs from his son Sandeep by giving him allurement of getting employment in Indian Railways; he had also given similar allurement to two other persons, namely, Pawan Kumar son of Dani Ram and Rajesh Kumar son of Prithvi Singh of his village. According to the complainant, they had given the amount in the month of August, 2014 through Ashish son of Ram Niwas to Balram Sharma and the amount was thus deposited in the account of Balram Sharma; the accused had provided training at Sampla etc., subsequently the accused were arrested.

After completion of investigation and other formalities, challan against Naresh Rathi @ Balram Sharma was filed in the Court. Charge has been framed and trial against him is going on. Whereas his co-accused Ashish is said to have been declared a proclaimed offender. During the course of investigation conducted by the police, it came out that petitioner/accused in collusion with one Pawan Rana, resident of Sheela Bye-pass, Rohtak forged papers of Railway Department, which were handed over to accused Ashish and on the basis of which petitioner cheated Sandeep and Rajesh of a sum of Rs.2.5 lakhs, which was deposited in the account of petitioner/accused. The said bank account had been opened by petitioner/accused by submitting a bogus/forged ID

card of Railway Department for the post of TC/CC, affixing his own photo. The petitioner had withdrawn a sum of Rs.2.5 lakhs from the said bank account from time to time. Now he has approached this Court submitting that since the matter has been compromised between him and Veer Singh – complainant, therefore, the FIR along with challan and other proceedings against him be quashed.

The parties were asked to appear before the trial Court to get their statements recorded, where statement of complainant Veer Singh and accused Naresh Rathi @ Balram Sharma had been recorded in which they have admitted the compromise. Report from the Court concerned has been received.

Whereas this petition is being vehemently opposed by the State counsel contending that keeping in view the gravity and seriousness of allegations, the petition be not accepted.

I have heard learned counsel for the parties besides going through the record.

Although it has been observed by the Apex Court in various pronouncements that criminal cases which are overwhelmingly and predominantly civil in nature especially those arising out of commercial transactions or out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. But then power of quashing is not to be exercised in those cases, 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 the society. While exercising such powers the High Court is required to examine as to whether the

possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

In light of such settled legal position, when the instant case is examined, then it transpires that the petitioner is not entitled to get the FIR, challan and ancillary proceedings quashed. The offences committed by him can certainly be not stated to be private in nature, rather he along with his co-accused has committed offences against the society by duping innocent persons of their hard earned money indulging in forgery and fabrication of documents going to the extent of issuing fake appointment letters purported to have been issued from the office of Northern Railway, Delhi. He is also accused of opening a bank account in a wrong name submitting forged documents. Such type of persons are threat to the society and do not deserve any leniency. Allowing him to be let off by quashing the FIR and challan and other proceedings against him would certainly send a wrong signal in the society that one can indulge in grave and heinous offence and then can go scot free by compromising the matter with the victim either by giving inducement or exerting pressure thereby shaking the faith of the people in the justice delivery system. Similarly, if the proceedings against him are quashed in such a manner that may embolden him to indulge in more grave criminal offences. The trial against the petitioner is going on and if on conclusion of trial, he is found to be innocent, he may be acquitted.

However, in view of law laid down by Hon'ble Supreme Court in *Narinder Singh and others Versus State of Punjab and*

another, 2014(2) RCR(Criminal) 482 and by Full Bench of this Court Kulwinder Singh and others Versus State of Punjab and another, 2007(3) RCR(Criminal)1052, and by the Apex Court in Gian Singh Versus State of Punjab and another, 2012 Criminal Law Journal 4934, the petition is doomed for failure and is dismissed accordingly.

25.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No