

CRM-M-10328-of 2021(O&M)

Date of Decision: 19.07.2021

Shamsher and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ravi Malik, Advocate, for the petitioners.
Mr. Munish Sharma, AAG, Haryana.
Mr. Mohan Singh Rana, Advocate,
for the respondent no.2.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

This case has been taken up out of turn on the request of learned counsel for the petitioners with him reiterating that since petitioner no.2 is not being given an appointment letter to join Army only because of the pendency of the FIR registered against him, it being a case where the matter has been compromised between the parties.

On March 05, 2021, the following order was passed by this court:-

“Case heard via video conferencing.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between them and respondent no. 2, of FIR no. 18 dated 21.01.2020, registered at Police Station Uchana, District Jind, for the alleged commission of offences punishable under the provisions of Sections 147/148/323/325/341/506 of the IPC, as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. Surender Singh, A.A.G., Haryana, accepts notice at the asking of the court on behalf of respondent no.1.

A copy of the petition be emailed to learned State counsel by counsel for the petitioner today itself.

Adjourned to 03.05.2021.

Respondent no. 2 be served by the next date of hearing.

Process *dasti* also.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned trial court/Ilaqa Magistrate upto 22.03.2021 to record their statements. The trial court/Ilaqa Magistrate would satisfy itself/ herself/himself 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/her/his 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.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners of like nature or otherwise, also annexing therewith the MLR showing the kind of injuries received by the victims and the opinion of the doctor thereon.”

Thereafter, an application for early hearing having been filed, that was allowed on 12.07.2021 and the matter has been listed for actual hearing today.

Pursuant to the order dated 05.03.2021, a report has been received from the SDJM, Narwana, dated 16.03.2021, stating therein that the complainant in the FIR, i.e. Raj Singh @ Raju, and an eyewitness Satyawan, appeared before that court and recorded separate statements to the effect that they have entered into a compromise with the petitioners (accused), of their own volition, without any coercion, fear and undue influence and that they do not wish to proceed with the criminal proceedings.

The five petitioners herein also appeared on the same date before that court and recorded a joint statement to the effect that the matter has been compromised between the parties.

As per the assessment of that court, the compromise reached between the parties is genuine, voluntarily and of their own free will.

The statements (in *Hindi*) have also been appended with the report.

Mr.Rana, learned counsel appearing for respondent no.2, also admits to the factum of the compromise and to the fact that the said respondent, i.e. the complainant in the FIR, has no objection to FIR itself being quashed.

A reply has also been filed on behalf of the respondent State by the DSP, Jind, otherwise opposing the quashing of the FIR on the ground that evidence would be duly led before the trial court; and expressing ignorance with regard to the factum of the compromise reached between the parties, but eventually also stating that as per record there is no other criminal case pending against the petitioners.

Learned State counsel of course argues in terms of the affidavit of the DSP.

However, having considered the matter, looking at the nature of the offence alleged to have been committed, with the matter having been amicably settled between the parties and there being no other criminal antecedents of the petitioners, further keeping in view the ratio of the judgment of the Supreme Court in **Gian Singh vs. State of Punjab**; 2012 (4) RCR (Crl.) 543, the petition is allowed and FIR No.18, dated 21.01.2020,

registered at Police Station Uchana, District Jind, alleging therein the commission of offences punishable under the provisions of Sections 148/323/325/341/506 of the IPC, along with all proceedings emanating therefrom, is hereby quashed.

The reply by the DSP is taken on record.

19.07.2021
dharamvir

(AMOL RATTAN SINGH)
JUDGE

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