

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(118) CRM-40887-2021 in/and
CRM-M-13385-2021
Date of Decision : December 20, 2021

Alok Kumar and another .. Petitioners

Versus

State of Punjab and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arjun Veer Sharma, Advocate
for the applicant-petitioners.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

Mr. Naveen Sharma, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-40887-2021

Present application has been filed for preponing the date of hearing of the main petition i.e. CRM-M-13385-2021, which now stands adjourned to 06.04.2022.

Notice of the application to the counsel opposite.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who is present in Court, accepts notice on behalf of respondent-State and Mr. Naveen Sharma, Advocate, who is also present in Court, accepts notice on behalf of respondent No.2-complainant and they have no objection for the grant of the prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and hearing the main petition i.e CRM-M-13385-2021 is preponed from 06.04.2022 to today.

CRM-M-13385-2021

In the present petition, the prayer of the petitioners is for quashing of FIR No. 171 dated 03.10.2020 registered under Sections 420, 465, 467, 468, 471, 120-B IPC and Section 66 (D) of Information Technology Act, 2000 at Police Station Jamalpur, Police Commissionerate Ludhiana District Ludhiana and all other subsequent proceedings arising therefrom, on the basis of compromise entered into between the parties.

The Co-ordinate Bench of this Court while issuing notice of motion on 24.03.2021 had passed the following order:-

“The Court has been convened through video conferencing due to Covid-19 Pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.171 dated 03.10.2020 registered under Sections 420, 465, 467, 468, 471, 120-B IPC and Section 66 (D) of Information Technology Act, 2000 at Police Station Jamalpur, Police Commissionerate Ludhiana District Ludhiana (Annexure P-1) alongwith all subsequent proceedings arising therein, on the basis of compromise dated 01.03.2021 (Annexure P-2).

Learned counsel for the petitioner submits that FIR in question has been lodged by respondent No.2-complainant on the allegations that his credit card has been misused by the accused and a loan has been obtained thereon without his authorization. He has referred to para-10 of the petition to submit that none of the petitioners have been declared as proclaimed offenders.

Notice of motion.

On asking of the Court, Mr. Ramandeep Sandhu, Senior Deputy Advocate General, Punjab, accepts notice on behalf of respondent-State and seeks time to have instructions.

Mr. Naveen Sharma, Advocate, has put in appearance on behalf of respondent No.2. He has admitted the factum of compromise effected between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 14.07.2021 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties;*
- 5. whether any other criminal case is pending against the accused.*

Report of the Illaqa Magistrate/trial Court be awaited for 18.08.2021.”

A report has come from Judicial Magistrate Ist Class, Ludhiana, addressed to the Registrar General of this Court dated 26.07.2021 along with the statements of the accused-petitioners as well as the complainant which have been recorded. As per the said report, the compromise between the parties is bona fide and is not a result of any pressure or coercion on any of the parties to the compromise and none of the accused has been declared

as proclaimed offender and no other criminal proceedings are pending against them except accused/petitioner No. 2 Veenu Kumar. The relevant part of the said report is as under:-

“Point wise report is submitted hereinafter :

1. Number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/PO in the case;

A. (1) It is respectfully submitted that as per FIR, there are two accused in the FIR No. 171 dated 03.10.2020 and the names of those accused are Alok Kumar and Veenu Kumar.

(II) Both the accused appeared before the Court of the undersigned and suffered the statement regarding compromise.

(III) As per report of police under Section 173 Cr.P.C., no accused is absconding/PO in this case.

2. Name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise.

A. (1) As per FIR and main file, Sh. Krishan Kumar s/o Baidyanath Jha is the complainant/aggrieved person in this case. It is further respectfully submitted that Sh. Krishan Kumar appeared and suffered the statement in support of the compromise.

3. Stage of the trial/proceedings?

A. (1) As per file, challan has been presented against both the accused persons and at present, the case is pending for consideration on charge and scrutiny of the documents.

4. Whether any other criminal case is pending against the accused?

A: (1) As per report of police, report of Ahlmad and statement of the accused Veenu Kumar, one more FIR

No. 44/2021, under Sections 420, 467, 468, 471 of IPC, P.S. Jamalpur is pending in the Court of the undersigned. No other case is pending against the accused Alok Kumar.

5. *Genuineness and voluntariness of compromise:*

A: *(1) It is respectfully submitted that compromise between parties was reduced in writing. As per compromise Ex. C-1, the matter is now resolved between the parties. From the statement of parties and the answers given by them during preliminary questioning and from the demeanor of parties, the compromise appears to be genuine, voluntary and out of free will or the parties.*

Submitted please.”

Learned counsel for the petitioners submits that the parties have already entered into compromise so as to live peacefully and no useful purpose will be served in keeping the FIR alive.

Learned State counsel submits that in the report given by the Judicial Magistrate Ist Class, Ludhiana, accused Veenu Kumar is involved in another FIR No. 44/2021, registered under Sections 420, 467, 468, 471 IPC at Police Station Jamalpur.

Learned counsel for the petitioners submits that in the said case, the investigation is under progress and no challan has been submitted, which makes it clear that as of now, only the allegations are there against the petitioner/accused Veenu, which need not be taken into consideration for the purpose of present quashing.

Keeping in view the totality of the circumstances which have been mentioned herein before and that the parties have already entered into compromise to settle their dispute so as to live peacefully and none of the

accused is a proclaimed offender and there are no other criminal cases against the accused-petitioners except accused Veenu, which FIR is at allegation stage as of now as no challan has been presented against accused Veenu, this Court is inclined to accept the prayer of the petitioners for quashing the FIR on the basis of the compromise.

Thus, the FIR No. 171 dated 03.10.2020 registered under Sections 420, 465, 467, 468, 471, 120-B IPC and Section 66 (D) of Information Technology Act, 2000 at Police Station Jamalpur, Police Commissionerate Ludhiana District Ludhiana and all other subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of compromise entered into between the parties.

The above order, quashing of the FIR, will be subject to the payment of Rs.15000/- as cost, to be deposited with Prabh Aasra (Unit of) u/o Universal Disabled Care Taker Social Welfare Society, (who are maintaining Orphans) in Bank A/c No.014894600000970, SCO 151-152, Sector 9- C, Chandigarh or A/c No.100035657241 of IndusInd Bank, Sector-54, Phase-II, Mohali Branch, by the petitioners.

December 20, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes