

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(125) CRM-35755-2021 in/and
CRM-M-21256-2021
Date of Decision : November 12, 2021

Shrey Sudan and others .. Petitioners

Versus

State of Haryana and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhimanyu Kalsy, Advocate, for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

Mr. Ankur Gupta, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-35755-2021

Present application has been filed for preponing the date of hearing of the main petition i.e. CRM-M-21256-2021, which now stands adjourned to 11.01.2022.

Notice of the application to the counsel opposite.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of respondent-State and Mr. Ankur Gupta, Advocate, who is also present in the 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, the application is allowed and hearing of the main petition i.e CRM-M-21256-2021 is preponed from 11.01.2022 to today.

CRM-M-21256-2021

In the present petition, the prayer of the petitioners is for quashing of FIR No.439 dated 26.10.2018 registered under Sections 323, 506, 341, 294, 120-B, 34 and 307 of the Indian Penal Code, 1860 at Police Station Faridabad N.I.T, District Faridabad (Annexure P-1) and all other subsequent proceedings arising therefrom, on the basis of compromise entered into between the parties.

The Coordinate Bench of this Court while issuing notice of motion on 02.08.2021 had passed the following order:-

“In this Petition, the Petitioners, who are the accused persons in F.I.R No.439, dated 26.10.2018, under Sections 323, 506, 341, 294, 120-B, 34, 307 of the Indian Penal Code, registered at Police Station Faridabad N.I.T., District Faridabad (Annexure P-1), have prayed for quashing of F.I.R. with all subsequent proceedings arising therefrom, on the basis of compromise.

Ld. Counsel for the Petitioners refers to Annexures P-2 to P-4, and states that the matter has been amicably settled between the parties.

Notice of motion.

Mr. Anmol Malik, Dy. Advocate General, Haryana to accept notice on behalf of Respondent No.1/State. A copy of the paper-book be handed over to him.

Mr. Ankur Gupta, Advocate has put in appearance through Video Conferencing on behalf of Respondent No.2 and admits the factum of compromise.

In view of the matter, the parties shall appear before the Ld. Trial Court/Illaq Magistrate on 25.08.2021 for getting

their statements recorded with regard to compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

List on 30.09.2021.”

A report has come from Civil Judge (Jr. Division), Faridabad, addressed to the Registrar General of this Court dated 28.09.2021 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. The relevant part of the said report is as under:-

“Query No.1:- Whether the statement of the parties are voluntarily and without any pressure?

Submission:- Apopos of this query, with profound deference, I may take the liberty of submitting that on being individually enquired by the undersigned about the voluntary nature of the compromise, the accused/petitioners- Shrey Sudan, Mansi Sudan & Pinky Sharma, and the complainant/respondent No.2- Sh. Nirmal Kumar Sharma have candidly stated that the matter has been amicably settled between them without any contaminating influence exercised by any one of them; and it was only after getting satisfied about its voluntary nature, the statements of the parties were recorded, the original copy of the same are attached herewith for the kind perusal of your honour.

Query No.2:- Names and number of accused involved?

Submission:- As per the statements of the investigating officer- ASI Dharampal, there are total three accused in the present case, whose names are- Pinky Sharma W/o Nirmal Kumar Sharma, Shrey Sudan S/o Nirmal Kumar Sharma & Mansi Sudan D/o Nirmal Kumar Sharma.

Query No.3:- Whether any of the accused has been declared proclaimed offender in the case?

Submission:- As per the statements of the investigating officer- none of the accused has been declared as proclaimed offender so far.”

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 counsel for respondent No.2-complainant admits the compromise as well as the statement made before the Civil Judge (Jr. Division), Faridabad and does not raise any objection, in case the FIR in question is quashed on the basis of the compromise.

Learned State counsel has also not pointed out any objection in respect of the prayer of the parties for quashing the FIR on the basis of the compromise.

Learned State counsel, on the instructions from ASI Dharam Pal, further informs this Court that after investigation, the allegations alleged in the FIR could not be substantiated and the Investigating Agency prepared a cancellation report though, the same is yet to be accepted by the competent Court of law.

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, this Court is inclined to accept the prayer of the petitioners for quashing the FIR on the basis of the compromise.

Keeping in view the above mentioned fact though, Section 307 IPC has been mentioned in the FIR but the allegations qua the said section have not been proved rather, after investigation, the Investigating Agency has prepared a cancellation report, though the same is still pending consideration with the competent Court of law and in the meantime, the parties had entered into the compromise to settle their dispute, hence, inclusion of Section 307 IPC in the FIR will not come in the way for quashing of the FIR in question on the basis of compromise.

Thus, the FIR No.439 dated 26.10.2018 registered under Sections 323, 506, 341, 294, 120-B, 34 and 307 of the Indian Penal Code, 1860 at Police Station Faridabad N.I.T, District Faridabad (Annexure P-1) 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.

November 12, 2021*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No