

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(223)

CRM-M-25948-2021

Date of Decision : November 22, 2021

Bhola Singh @ Rashpinder Singh

.. Petitioner

Versus

State of Punjab and another

.. Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

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

None for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioner is for quashing of FIR No.98 dated 03.10.2014 registered under Section 379 IPC (Sections 411, 447, 511 IPC added later on) at Police Station Mehna, District Moga (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 23.08.2021 had passed the following order:-

“The case has been taken up for hearing through video conferencing.

The petitioners have filed the present petition under

Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.98 dated 03.10.2014 registered under Section 379 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Mehna, District Moga to which Section 411, 447 and 511 of the IPC was added later on and all subsequent proceedings arising therefrom on the basis of compromise dated 26.05.2021 effected between the parties.

Notice of Motion

Pursuant to supply of advance copy of the petition, Mr. P.S.Walia, Asstt. A.G. Punjab, has appeared and accepted notice on behalf of respondents No.1-State.

Mr. Manish Gulati, Advocate has appeared on behalf of respondent No.2 and undertakes to file his power of attorney in the Registry.

Learned Counsel for respondent No.2 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 31.08.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing-06.10.2021 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 trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send

the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State be filed on the date of hearing fixed, if so desired .”

When the case was taken up on 06.10.2021, learned counsel for the petitioner requested for another opportunity to be granted to the parties for getting their statements recorded, which was accepted by this Court and the parties were directed to appear before the trial Court on 29.10.2021 for recording their statements.

Today, no one has appeared either on behalf of the petitioner or for respondent No.2.

Report, which has been received from the Judicial Magistrate Ist Class Moga is as under:-

“With reference to order dated 06.10.2021 passed in CRM-M-25948-2021 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh, it is respectfully submitted that as per the directions of Hon'ble High Court, parties were directed to appear before the Trial Court/ Illaqa Magistrate on 29.10.2021 for recording their statement with regard to compromise dated 26.05.2021 in terms of order dated 23.08.2021.

However, on dated 29.10.2021, parties had not appeared before the court for getting recorded their statements with regard to compromise dated 26.05.2021 in terms of order dated 23.08.2021.

Submitted please.”

The above makes it clear that despite two opportunities, no one appeared before the trial Court for recording of statement.

Keeping in view the above, the genuinenity of the compromise, which is being relied upon, cannot be ascertained and rather, the parties

despite having undertaken before this Court to appear before the trial Court, have not appeared, hence, the prayer of the petitioner for quashing of FIR cannot be accepted.

Dismissed.

November 22, 2021

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No