

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

CRM-M-22868-2020

Date of Decision: 15.09.2021

Rana Randeep and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Shashwat Parihar, Advocate,
for the petitioners.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. Jatin Sehgal, Senior Advocate, with
Mr. R.D. Gupta, Advocate, and
Mr. Adhirath Singh, Advocate,
for respondents no. 2 and 3.

AMOL RATTAN SINGH, J. (ORAL)

This petition initially had been filed by three petitioners. Though, in the prayer made in the petition, it has not been stated that quashing of the FIR in question, (i.e. FIR no. 34, dated 29.02.2020, registered at Police Station Cyber Crime Cell, District Gurugram, for the alleged commission of offences punishable under the provisions of Sections 408/420 of the IPC and Section 66-B of the Information Technology Act, 2000, as also all other subsequent proceedings arising therefrom), is sought on the basis of any compromise reached between the parties, however, learned counsel for the parties has drawn attention to the order of this court dated 17.08.2020, by which notice of motion was issued, wherein it is stated that a compromise had been arrived at between petitioner no.1 and

respondents no.2 and 3 and therefore quashing of the FIR was sought on that basis.

Thereafter, as recorded in the order dated 15.01.2021, the petition qua petitioner no. 1 had been dismissed as withdrawn, in view of the statement made by Mr. Pardeep Virk, Advocate, who was appearing for petitioner no. 1 on that date.

Arguments have been addressed over a length of time over video conferencing, with counsel for the parties taking this court to various documents in support of their respective arguments and with counsel for the petitioners submitting that in fact it is not the petitioners (i.e. the remaining petitioners after petitioner no. 1 withdrew from the petition), who have not complied with the terms of the settlement (Annexure P-3, dated 25.05.2020); but with counsel for respondents no. 2 and 3 submitting that in fact it is the petitioners who have not honoured their part of the contract in terms of the settlement. Mr. Sehgal today again points to clause sub-clause (iii) of Clause III of the agreement (at page 36 of the paper-book), which reads as follows:-

*(iii) That in pursuance to clauses III (i) and III (ii) above, the Second Party, Third Party, Forth Party and Fifth Party agree and undertake to immediately issue a formal communication to all the clients and customers whether existing or potential, of the Fifty Party, as mentioned under **Annexure A** to the present Agreement, intimating them that the Fifth Party has ceased all operations and will close/shut down in accordance with the manner and form stipulated under **Annexure-B** to the present Agreement.*

He thereafter points to what is recorded in the order dated 15.01.2021 (when this court was inclined to dismiss the petition at that stage itself). Learned counsel for the petitioners had submitted at that stage that he would like to place on record communications and documents showing that winding up of the company as is the 5th part to the agreement (M/s Gansai Martech Private Limited), had actually been applied for, and that the communications to potential customers had been sent, to the effect that the company has been wound up (or was in the process of winding up).

Mr. Sehgal next points to the copy of the communication as has been annexed as Annexure A-9 with CRM-2050-2021, (which is seen to be a forwarded communication of an earlier communication stated to have been exchanged between petitioner Sugand Dixit and one Archisman Sarkar).

The relevant part of the said communication (other than the part stating that Sugandh Dixit was working with a company known as Brightcove), reads as follows:-

*“Also discussed, I would also like to seek your confirmation on the fact that when you were part of Colive as **Head-Protect dev, innovations, automation, digital marketing**, Gansai Martech Pvt. Limited (LocationsZ) had informed you that we ceased our functionality completely at the end of May 2020.”*

In response to that communication the aforesaid Archisman Sarkar is shown to have stated as follows:-

*“Hi
I confirm the same. We at colive have used locationz in that period of time.”*

Mr. Sehgal next submits that the said communication does not show that there was actually any communication made by the petitioners in any manner, in May 2020, to even the aforesaid person immediately after the agreement dated 25.05.2020 had been entered into, stating to the effect that M/s Gansai Martech Private Limited was actually in the process of winding up. He submits that the communication Annexure A-9 only refers to an earlier communication stated to have been made at the end of May 2020, but with that communication itself not being on record anywhere.

Upon query put to learned counsel for the petitioners as to whether the original communication that is contended to have been made at the end of May 2020 can be shown to this court, he submits that it is not available.

Though learned senior counsel for respondents no. 2 and 3 also wishes to point to other alleged breaches in the contract by counsel for the petitioners and counsel for the petitioners also wishes to counter the same by showing certain breaches alleged to have been made by the respondents, what is to be taken due notice of this court, even at this belated stage, is that learned counsel for the petitioners time and again has stated that this is a petition seeking quashing of the FIR in question on the basis of a compromise arrived at between the parties, i.e. the settlement dated 25.05.2020, (with him also having pointed earlier to paragraph 6 of the petition, in which it is stated that the petition “is being moved in view of the settlement/compromise arrived at between the petitioners and respondent no. 2 vide Settlement Agreement dated 25.05.2020, in terms whereof it has been agreed *inter alia* to the effect that:”).

It is also to be noticed that for an alleged breach of that settlement, the respondent company has initiated arbitration proceedings before a learned Arbitrator in Delhi, which is not denied by learned counsel for the petitioners.

Very obviously therefore, the parties are no longer *ad idem* on the issue of the FIR being quashed on the basis of any compromise.

That being so, I see no reason to entertain this petition any further, which is consequently, dismissed.

If the petitioners wish to challenge the FIR on the merits thereof, they would obviously always be at liberty to do so, with that petition, if filed, to be naturally considered on its own merits, as and when it is filed.

Naturally, this court not having given any final finding on the contentions raised on either side, this order will not come in the way of the petitioners, if they file any other petition seeking quashing of the FIR in question on merits, with it to be repeated (in view of the insistence of learned counsel for the petitioners), that the said petition would be considered wholly on its own merits.

September 15, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.