

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(226)

CRM-M-32413-2021

Date of Decision : November 24, 2021

Shoaib @ Suheb Khan and others

..Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.C. Shahpuri, Advocate, for the petitioners.

Mr. Karan Sharma, Assistant Advocate General, Haryana.

Mr. Baljeet Beniwal, Advocate, for
Mr. Ritesh Pandey, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioners is for quashing of FIR No.424 dated 01.12.2020 registered under Sections 323, 325, 506 and 34 IPC at Police Station Chandimandir, District Panchkula and all other subsequent proceedings arising therefrom, on the basis of compromise entered into between the parties.

This Court while issuing notice of motion on 12.08.2021 had passed the following order:-

“Present petition has been filed for quashing of FIR No.424 dated 01.12.2020 (Annexure P-1) registered under Sections 323, 325, 506 and 34 IPC at Police Station Chandimandir, District Panchkula on the basis of compromise entered into between the parties.

Learned counsel for the petitioner argues that in order to live peacefully, parties have entered into compromise on

17.06.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Gaurav Bansal, AAG, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent No.1-State.

Mr. Ritesh Pandey, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of respondent No.2-complainant. He does not dispute the above-said compromise which has been arrived at between the parties, according to which complainant does not wish to press the allegations alleged in the FIR any further.

Adjourned to 27.10.2021.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement dated 17.06.2021 (P-2) on 21.09.2021 by moving an appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information: -

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a 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 FIR or not; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR.*

The question of imposition of cost for wasting the valuable time of the police as well as the Court will be

assessed and imposed at the time of the final hearing of the present petition in case, the FIR is to be quashed..”

A report has come from Additional Chief Judicial Magistrate, Panchkula, addressed to the Assistant Registrar (Crl.) of this Court dated 01.10.2021 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 said report is as under:-

“ 1. Number of persons arrayed as accused?

- 1. Shoaib @ Suheb Khan S/o Nazar Ali;*
- 2. Amir Khan S/o Yamin;*
- 3. Sandeep Kumar S/o Kiran Pal;*
- 4. Manender @ Maninder Sharma S/o Manoj Kumar;*
- 5. Parvinder Singh S/o Mohan Singh;*

Initially, FIR was registered against all five accused. However, challan has been filed against four accused except Amir Khan S/o Yamin, who was found to be innocent during investigation.

2. Whether any accused is proclaimed offender?

** No accused is proclaimed offender in this case.*

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

** The compromise arrived between the complainant Sahil and accused Shoaib, Amir Khan, Sandeep Kumar, Manender @ Maninder Sharma and Parvinder Singh appears to be genuine, voluntary and entered into without any coercion or undue influence. Separate statement of the complainant as well as accused was also recorded. Complainant categorically submitted in his statement that he has entered into the*

compromise Ex. PA with his free will and he has no objection in case FIR against the accused persons is quashed. All the accused also affirmed the fact of compromise in their joint statement.

4. Whether the accused persons are involved in any other FIR or not?

** As per the report furnished by the Investigating Officer, accused persons (except accused Sandeep Kumar) are not involved in any other FIR apart from this case. However, accused Sandeep Kumar is stated to be involved in one more FIR i.e. FIR No.30 dated 25.01.2021 U/s 148, 149, 323, 506 IPC, P.S. Chandimandir, District Panchkula (Haryana).*

5. Investigating Officer also got recorded his statement that there is only one complainant/victim in the present FIR. 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 counsel for the respondent-complainant admits the compromise as well as the statement made before the Additional Chief Judicial Magistrate, Panchkula and does not raise any objection, in case the FIR in question is quashed on the basis of the compromise.

Learned State counsel, by placing reliance upon the affidavit of Mr. Raj Kumar, HPS, Assistant Commissioner of Police, Panchkula dated 16.11.2021, submits that the petitioners are involved in another FIR being FIR No.30 dated 25.01.2021 registered at Police Station Chandimandir, District Panchkula.

Learned counsel for the petitioners submits that the said FIR cannot be taken into consideration for any purpose for the reason that in the

said case, challan is yet to be presented against the petitioner and the petitioner is already on anticipatory bail and as the challan has not been presented, it cannot be said that any criminal proceedings are pending against the petitioners as the FIR only contains the allegations.

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, 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.424 dated 01.12.2020 registered under Sections 323, 325, 506 and 34 IPC at Police Station Chandimandir, District Panchkula 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 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 24, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No