

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

Sr. No.223

CRM-M-41024 of 2021(O&M)

Date of Decision: 02.12.2021

DHARMENDER AND ANOTHER

... Petitioners

VERSUS

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mayank Goyal, Advocate
for the petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. Sukhcharan Singh, 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.232, dated 29.04.2019, registered under Sections 279, 323, 341, 506 and 34 of the IPC and Section 68 of the Punjab Excise Act, 1914 registered at Police Station City Sirsa, District Sirsa 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 30.09.2021 had passed the following order:-

“ Present petition has been filed for quashing of FIR No.232 dated 29.04.2019 (Annexure P-1) registered under Sections 279, 323, 341, 506 and 34 of the IPC and Section 68 of the Punjab Excise Act, 1914 at Police Station City Sirsa, District Sirsa on the basis of compromise entered into between the parties.

Learned counsel for the petitioners submits that the allegations in the present case are under the Punjab Excise Act, 1914 as a fight took place

between the petitioners and the respondent No.2 under the influence of liquor and now in order to live peacefully, the parties have entered into compromise on 10.09.2021 (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. Sukhcharan Singh, 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 02.12.2021.

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 10.09.2021 (P-2) on 27.10.2021 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 and all the victims/complainants as well as accused are party to the compromise in question.

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 the Chief Judicial Magistrate, Sirsa

addressed to the Assistant Registrar of this Court dated 30.10.2021 along with

the statements of the accused-petitioners as well as of 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 report is as under:-

“The accused persons namely Dharmender and Parveen got recorded their statements to the effect that they had arrived at compromise with complainant Rahul son of Mahi Ram resident of Gali No.8, Aggarsain Colony, Sirsa without any fear, threat or pressure. They have also furnished affidavits in the Court elaborating the facts that no other case beside the present case has ever been registered against them and they have never been declared proclaimed offenders. They further prayed to quash the FIR in question as per the compromise arrived at between the parties.

Similarly, in compliance of the order 30.09.2021, passed by Hon'ble High Court in CRM-M No.41024 of 2021, complainant of the case namely Rahul son of Mahi Ram resident of Gali No.8, Aggarsain Colony, Sirsa also appeared before the Court of Undersigned and got recorded his statement to the effect that he had arrived at compromise with the accused persons amicably in the present case without any fear, threat or pressure. He further stated categorically that there is no one else as accused beside the aforementioned two accused persons in the present case and similarly no one else other than him is complainant in this case. He also stated that he had no objection in case the present FIR against the said accused persons is quashed.

Similarly the Investigating officer of the present case ASI Krishan Kumar No.839/Jind, now posted at PP Kirti Nagar, PS City Sirsa also appeared

before the Court of undersigned and got recorded his statement to the effect that

he had remained Investigating Officer of the case in question and there were only two accused persons in that case namely Dharmender and Parveen. The said two accused persons were not involved in any other case beside this case. He further stated the said two accused persons had never been declared proclaimed offenders by any Court. He also stated that the accused persons

and complainant have arrived at compromise amicably.

From the statements as well as oral examination of parties, this Court is of the opinion that the matter in question has been compromised between the petitioners/accused persons namely Dharmender, Parveen and respondent/complainant Rahul without any fear, coercion, inducement or threat. It further reveals that the said compromise between them is voluntary and effected with free will of the said parties concerned.”

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 Chief Judicial Magistrate, Sirsa 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.

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.

Thus, the FIR No.232, dated 29.04.2019, registered under Sections 279, 323, 341, 506 and 34 of the IPC and Section 68 of the Punjab Excise Act, 1914 registered at Police Station City Sirsa, District Sirsa 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 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.

(HARSIMRAN SINGH SETHI)
JUDGE

02.12.2021

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Whether speaking/reasoned	:	Yes
Whether reportable	:	No