

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

CRM-M-45236-2021

Date of Decision : December 16, 2021

Kulwant Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. O.P. Kamboj, Advocate,, for the petitioner.

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

Ms. N.R. Komal Kamboj, Advocate, for respondents No.4 & 5.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioner is for quashing of FIR No.85, dated 16.06.2017, registered under Section 420 IPC, at Police Station Sadar Sri Muktsar Sahib District Sri Muktsar Sahib 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 28.10.2021 had passed the following order:-

“Present petition has been filed for quashing of FIR No.85, dated 16.06.2017, registered under Section 420 IPC, at Police Station Sadar Sri Muktsar Sahib District Sri Muktsar Sahib, (Annexure P-1), 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 15.09.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab, who has joined the proceedings through video conference, accepts notice on behalf of respondents No.1 to 3-State.

Ms. N.R. Komal Kamboj, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of respondents No.4 and 5. She admits the factum of the compromise entered into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 16.12.2021.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 24.11.2021 by moving 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 not quashed.”

A report has come from Additional Chief Judicial Magistrate, Sri Muktsar Sahib, addressed to the Registrar (Criminal) of this Court dated 25.11.2021 along with the statements of the accused-petitioner 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:-

“Therefore, in view of the aforesaid statements, the report as desired by Hon'ble Punjab and Haryana High Court is, hereby, submitted as follows:-

1. There is only one person arraigned in the FIR as accused namely 'Kulwant Singh'.

2. As per record and statement of investigating officer, accused Kulwant Singh has not been absconding or declared as proclaimed offender in the case;

3. The compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence:

4. As per the statement of Investigating Officer, the accused is not involved in any other FIR; and

5. As per the statement of the Investigating Officer, the following are the parties to the instant case:-

1. Karnail Singh (since deceased) through his legal heirs namely Sadhu Singh and Surat Singh;

2. Massa Singh; and

3. Kulwant Singh (accused).

Therefore report alongwith statements of parties as desired by Hon'ble High Court is submitted with a request to put up before Hon'ble Punjab and Haryana High Court in CRM-M-45236 of 2021 pending for 16.12.2021."

Learned counsel for the petitioner 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 respondents No. 4 and 5 admits the compromise as well as the statement made before the Additional Chief Judicial Magistrate, Sri Muktsar Sahib 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-petitioner, this Court is inclined to accept the prayer of the petitioner for quashing the FIR on the basis of the compromise.

Thus, the FIR No.85, dated 16.06.2017, registered under Section 420 IPC, at Police Station Sadar Sri Muktsar Sahib District Sri Muktsar Sahib and all other subsequent proceedings arising therefrom are quashed qua the petitioner 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 petitioner.

December 16, 2021*harsha***(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No