

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(218)

CRM-M No.45049 of 2021
Date of Decision : 17.12.2021

Raj Kumar and others

....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Venu Gopal, Advocate
for the petitioners.

Mr. Karan Garg, Assistant Advocate General, Haryana.

Mr. Abhishek Singh, Advocate
for respondent No.2-complainant.

Harsimran Singh Sethi, J. (Oral)

In the present petition, the prayer of the petitioners are for quashing of FIR No.0646 dated 16.10.2021 under Sections 148,149,323,324 and 506 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Krishna Gate, District Kurukshetra 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.0646, dated 16.10.2021, registered under Sections 148, 149, 323, 324 and 506 of IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Krishna Gate, District Kurukshetra (Annexure P-1), on the basis of compromise entered into between the parties. Learned counsel for the petitioners argues that in order to live peacefully,

parties have entered into compromise on 25.10.2021, according to which, both the parties have agreed not to proceed further with the FIR in question. Notice of motion.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana, who has joined the proceedings through video conference, accepts notice on behalf of respondent No.1-State.

Mr. Abhishek Singh, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of respondent No.2. He 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 17.12.2021.

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 and all the victims/complainants as well as accused are party to the compromise in question. The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is not quashed.”

In pursuance to the above mentioned order, a report has come from Judicial Magistrate, Ist Class, Kurukshetra addressed to the Registrar General of this Court dated 09.12.2021 along with the statements of the accused-petitioner as well as the complainants. The relevant part of the said report is as under :-

“With reference to the subject cited above, I have the honour to submit that in pursuance of order dated

28.10.2021 passed by the Hon'ble Punjab and Haryana High Court in CRM-M No.45049 of 2021, parties i.e. complainant Jasdev Singh and accused persons Raj Kumar, Pankaj Kumar and Sanjiv Kumar appeared before the undersigned on 24.11.2021 and made statement separately that they have compromised the matter. Complainant Jasdev Singh stated that he does not want to pursue the proceedings against the accused persons. The parties were also orally questioned by the undersigned regarding genuineness and validity of the compromise and they stated that they have entered into the compromise voluntarily by their own free will. Both the parties were identified by their counsel, respectively. After going through the statements of the parties, I am of the view that parties have actually entered into a compromise by their free-will and the said compromise is genuine.

Statement of the I.O./DSP Narender Singh has been recorded separately stating that the FIR No.646 dated 16.10.2021, under Sections 148,149,323,324 & 506 of IPC & Section 3 of SC & ST (Prevention of Atrocities), Act, 1989, Police Station, Krishna Gate, Thanesar has been registered against three persons Sanjiv Kumar, Pankaj and Raj Kumar by name and against 2-3 unknown persons. No accused is declared as proclaimed offender. No other FIR has been registered/pending against the said accused persons. Only one complainant/victim is in the present FIR and all the victim as well as accused persons are party to the compromise in question.”

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.

Learned counsel for the petitioners submits that in order to

live peacefully, the parties have compromised their dispute and, therefore, the

present petition may kindly be allowed and the FIR in question may be quashed on the basis of the compromise, a copy of which has been appended with this petition as Annexure P-2.

Learned counsel for the respondent No. 2/complainant admits the compromise as well as the statement made before the Judicial Magistrate, Ist Class, Kurukshetra 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 settled principle of law settled by the Hon'ble Supreme Court of India in Criminal Appeal No.1393 of 2011 titled as **Ramavtar Vs. State of Madhya Pradesh** decided on 25.10.2021, the allegations, due to which, sections under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are involved in FIR are private in nature, hence the same can also be quashed on the basis of compromise. Thus, the present is a fit case to exercise the said jurisdiction by this Court.

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.0646 dated 16.10.2021 under Sections 148,149,323,324 and 506 of IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police

proceedings arising therefrom are quashed qua the petitioners 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.10,000/- as cost, to be deposited by the petitioners 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.

December 17, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No