

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

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CRM-M-41769-2020

Date of Decision:09.04.2021

Rahul Jain

...Petitioner

Versus

State of Haryana and another

...Respondents

CRM-M-22880-2020

Kubota Agricultural Machinery India Pvt.Limited and others ...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.Parampreet Singh Brar, Advocate
for the petitioner in CRM-M-41769-2020

Mr.Vikas Bahl, Senior Advocate with
Mr.Aakritee Raj, Advocate
for the petitioners in CRM-M-22880-2020

Mr.Surender Singh, AAG Haryana

None for respondent No.2-complainant.

Amol Rattan Singh, J. (Oral)

Cases heard by video conferencing.

CRM-M-41769-2020

By this petition, the petitioner seeks quashing, on the basis of a
compromise arrived at between the petitioner and respondent No.2, of FIR
No.617 dated 13.12.2019, registered at Police Station DLF, Phase-III,
Gurgaon, District Gurgaon, for the alleged commission of offences

punishable under Sections 420 and 120-B of the IPC (with Section 467,468 and 471 of the IPC having been added later on), as also all other subsequent proceedings arising therefrom. A copy of the compromise deed dated 28.11.2020 has been annexed as Annexure P-3 with the petition.

On 17.12.2020, the following order had been passed by this Court:

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between the petitioner and respondent no. 2, of FIR no.617 dated 13.12.2019, registered at Police Station DLF Phase III, District Gurugram, for the alleged commission of offences punishable under Sections 420/120-B of the IPC (with Sections 467/468/471 of the IPC having been added later on), as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-3 with the petition.

Notice of motion.

Mr. Gurbir Singh Dhillon, A.A.G., Haryana, accepts notice at the asking of the court on behalf of respondent no.1, with Mr. Aditya Bharech, Advocate, appearing for respondent no.2.

A copy of the petition be emailed to both learned counsel for the respondents by learned counsel for the petitioner today itself.

Learned counsel for the petitioner and the complainant, i.e.respondent no. 2 are ad idem that the unsigned copy of the compromise deed as has been annexed as Annexure P-3 with the petition, is actually not the document that has been finally signed by the parties, with that instrument having been signed on 28.11.2020.

However, counsel for respondent no. 2 also does not deny the factum of a compromise reached between the parties.

Adjourned to 19.02.2020.

In view of the above, in the meanwhile, the petitioner, as also respondent no. 2, would appear before the learned Chief Judicial Magistrate/Duty Magistrate, Gurugram, upto 12.01.2021, to record their statements in terms of the compromise stated to have been reached between them on 28.11.2020, with that court to firstly go into the terms of the compromise and thereafter to record the statements of the parties in respect thereof, if they wish to so get them recorded.

The CJM/Duty Magistrate would satisfy herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

Learned State counsel would also verify whether there are any criminal cases, of like nature or otherwise, pending against the petitioner.

A gazetted officer is also directed to file a reply to the petition.”

Pursuant to the said order, the report of the learned Chief Judicial Magistrate, Gurugram, dated 13.01.2021, has been received. Though today also counsel for the complainant-respondent No.2 is not present, however, I would see no reason to continue with this petition or the accompanying one, in the circumstances where the aforesaid report has been received as regards the compromise entered into between the parties and with counsel for the complainant choosing not to come present for the second date in succession (which is obviously not to be appreciated as

regards the lack of responsibility of the counsel).

As per the said report, the complainant (respondent No.2 Sanjay Mehta), appeared before the learned Chief Judicial Magistrate, Gurugram, and stated that he has indeed entered into a compromise with the “main accused Rahul Jain” i.e. the petitioner in the present petition and that he has no objection if the FIR is quashed. He was stated to have been identified by the Investigating Officer, ASI Sandeep Kumar, who appeared before that court.

However, in fact, the petitioner i.e. Rahul Jain, did not turn up before that court to record his statement. Mr. Brar, learned counsel appearing for him today, submits that in fact he was in Mumbai two days earlier and had faced a heart issue, due to which he could not appear before the learned Chief Judicial Magistrate, although he submits that obviously the petitioner himself is seeking quashing of the FIR in question.

That (equally obviously) being so, the petitioner is held bound to the terms of the compromise entered into between him and respondent No.2, and with the petitioner stated to have received the tractor as was sold by him to the complainant and the money paid in lieu of the same also having returned to the complainant, with the matter compromised as per the statement of the complainant, I would see no reason to continue with the criminal proceedings.

Hence, looking at the nature of the allegations made in the FIR, with a copy of the compromise deed also being on record, as is the report of the learned Chief Judicial Magistrate, Gurugram, the petition is allowed and FIR No.617, dated 13.12.2019, registered at Police Station DLF, Phase-III, Gurgaon, for the alleged commission of offences

punishable under Sections 420 and 120-B of the IPC (with Section 467, 468 and 471 of the IPC having been added later), along with all proceedings emanating therefrom, is hereby quashed.

CRM-M-22880-2020

Vide this petition, the petitioners seek quashing of the same FIR registered, with the contention being that the petitioners are manufacturers of the tractor as was sold by the petitioner in the accompanying petition (Rahul Jain), to the complainant in the FIR, and that if Rahul Jain in any manner duped the complainant (as per the allegations of the complainant), that was not the fault of the manufacturers.

Having considered the matter, with the tractor in question already having been returned by the complainant to the petitioner in the accompanying petition, i.e. Rahul Jain, and the money having been received back by the respondent-complainant, I would see no reason to not allow this petition, even though there is no specific compromise shown to have been entered into between the petitioners in this petition and the complainant in the accompanying FIR.

It is also to be observed that in fact, as per the statement of the complainant before the learned CJM Gurugram, he has stated that he has no objection to the FIR itself being quashed. He has not qualified that statement in any manner by stating that it should be quashed only qua Rahul Jain and not qua the others, though he has stated that he entered into a compromise with Rahul Jain.

In view of all the aforesaid circumstances, with the money paid by the complainant also having been refunded to him by the aforesaid Rahul Jain, this petition is allowed and FIR No.617 dated 13.12.2019, registered at Police Station DLF, Phase-III, Gurgaon, for the alleged

commission of offences punishable under Sections 420 and 120-B of the
IPC,along with all proceedings emanating therefrom, is hereby quashed.

April 09, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No