

CRM-M-43466-2019 (O&M)

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

**CRM-M-43466-2019 (O&M).
Decided on: November 8, 2021.**

Sat Parkash and another

.. Petitioners

VERSUS

State of Haryana and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vinod Bhardwaj, Advocate,
for the petitioners.**

Mr.Ranvir Singh Arya, Addl. A.G. Haryana.

Dr.Naresh Kaushik, Advocate, for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.246 dated 12.7.2019, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Ladwa, District Kurukshetra (Annexure P1) and all the consequential proceedings arising therefrom on the basis of compromise dated 19.9.2019 (Annexure P2) which is stated to be effected between the parties.

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Briefly, the factual matrix of the present case is that aforesaid FIR was lodged on the basis of complaint made by one Shiv Kumar son of Ram Chander – respondent No.2 against two cooperative societies namely the Brahmanand Coop. Society and the Hansi Love-Kush Coop. L/C Society, Hansi, District Hisar, for getting work contract on the basis of fake labour licences. The petitioners seem to be the incharge of the aforesaid societies but their designations have not come up in the record of the case. As per the allegations made in the FIR, the Municipal Committee, Ladwa, invited tender No.104397 for the sanitation work in which number of societies including the aforesaid two societies submitted their tenders and thereafter, the Municipal Committee, Ladwa, found both the above said societies to be fit for doing the work and the tender was allotted to the Brahmanand Coop. Society. A complaint was lodged by the complainant against both the above mentioned societies on 15.1.2019 at CM Window, Dappar alleging that both the societies have fake labour licences. The CM Window Dappar, sent a letter to the Labour Commissioner, Panchkula, for initiating proceedings in the matter and verification of the labour licences of both the above societies and the Labour Commissioner, Panchkula, vide letter dated 15.3.2019 described that labour licences of both the above societies are fake. The report was also submitted by the Deputy Labour Commissioner on 15.2.2019 in which the labour licence of above said Society No.2 was also not found correct and thereafter, on 30.5.2019, it was ordered by the CM Window to the Municipal Committee, Ladwa, for cancellation of the above stated

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tender and the same was cancelled on 31.5.2019 and on the basis of the same, it was ordered that the case be registered against the accused persons and in this way, the present FIR came to be lodged against the petitioners.

Learned counsel for the petitioners has submitted that a compromise has been effected between the parties vide Annexure P-2 dated 19.9.2019 between both the Cooperative Societies and the complainant namely Shiv Kumar – respondent No.2. As per the compromise, there was a misunderstanding at the time of lodging of the FIR because there was no requirement of the Municipal Committee for attaching the licence for the purpose of applying for the tender and since the misunderstanding has been removed, the parties do not want to initiate any legal proceedings against each other. An affidavit of respondent No.2 has also been attached as Annexure P-3. Learned counsel for the petitioners further submitted that since the matter has been compromised between the parties, no useful purpose would be served in case further prosecution is carried on as the present case does not fall in the category of serious and heinous offences and therefore, the present FIR may be quashed on the basis of compromise effected between the parties.

On the other hand, Mr.Ranvir Singh Arya, learned Addl. A.G. Haryana, while opposing the prayer for quashing of FIR based upon compromise has submitted that a detailed reply has been filed by the State by way of affidavit of Deputy Superintendent of Police, Ladwa, Kurukshetra and while referring to the affidavit filed by the State, he

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submitted that it is a case where both the cooperative societies had submitted fake licences purported to be issued by the Labour Department for the purpose of getting the tender work from various institutions and the said licences have been got verified from the office of Labour Commissioner, Panchkula and on 15.3.2019, Labour Commissioner, Panchkula, intimated that licences of both the cooperative societies were fake and therefore on 13.5.2019, the tender allotted by Municipal Committee, Ladwa, was ordered to be cancelled and the same was cancelled on 31.5.2019. He submitted that a detailed inquiry was conducted by the Deputy Labour Commissioner, Panchkula, and thereafter, the Secretary, Municipal committee, Ladwa, was directed for cancellation of the tender and for taking legal action against the aforesaid two societies and thereafter, the present FIR has been registered under Sections 420, 467, 468 and 471 IPC, at Police Station Ladwa, District Kurukshetra. The aforesaid affidavit was filed on 12.2.2020 wherein it has been stated that although no P.O. proceedings were initiated against any person in this case but the present case is under investigation. It has been further stated in the affidavit that the complainant namely Shiv Kumar – respondent No.2 has no right to compromise the matter with the petitioners as the petitioners have played fraud with Municipal Committee, Ladwa and in this regard the Committee had also written a letter to S.P. Kurukshetra, for taking legal action and since the matter pertains to fake labour licences, it is a very serious offence and it is still to be ascertained as to at how many places, the petitioners have used the fake

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labour licences for getting the tenders allotted. The learned Addl. Advocate General, Haryana, submitted that it is not only a serious offence but also offence against the society at large and therefore, in view of the facts and circumstances of the present case, the FIR and its consequential proceedings cannot be quashed on the basis of compromise. He further submitted that complainant was only an informant and on the basis of the information supplied by him, an enquiry was conducted by the Labour Department whereby the labour licences were found to be fake and in such circumstances, respondent No.2 has no locus to compromise the matter with the petitioners as it is an offence against the State affecting the Society at large and as such, the learned Addl. Advocate General, Haryana, has prayed for the dismissal of the present petition.

Mr.Naresh Kaushik, Advocate, who has caused appearance on behalf of complainant – respondent no.2 has submitted that the matter has been compromised with respondent No.2, and he has no objection in case the present FIR and all the consequential proceedings are quashed based upon compromise.

I have heard the learned counsel for the parties.

On 14.10.2019, when this matter came up for preliminary hearing, this Court had issued notice of motion for 12.2.2020 and based upon compromise, the parties were directed to appear before the learned trial Court/Illaqu Magistrate on 18.11.2019 or any other convenient date for recording of the statements with regard to compromise and the trial Court was directed to record the statements of

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both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner and the Trial Court/Illaq Magistrate was further directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties. It was also directed that till next date of hearing the petitioners shall not be arrested. Thereafter, the Judicial Magistrate First Class, Kurukshetra, in pursuance of the orders passed by this Court recorded the statements of the parties and sent a report to this Court on 3.12.2019, in which it has been stated that the parties have compromised voluntarily and without any coercion to bury their differences and they have got recorded their separate statements wherein they have stated that they have compromised the matter voluntarily and now there is no dispute between them and therefore, the FIR may be quashed.

However, after passing of the order by this Court on 14.10.2019 and after recording the statements by the learned Magistrate in pursuance of the order passed by this Court, the State has filed reply by way of affidavit dated 12.2.2020 in which details have been submitted regarding the background of the present case whereby both the societies had supplied fake licences purported to be issued by the Labour Department and thereafter, the tender was allotted to them by the Municipal Committee, Ladwa. Serious objections have been taken with regard to the quashing of the FIR based upon compromise on the ground that the petitioners have played fraud with the Municipal Committee,

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Ladwa and also the labour licences of the petitioners societies were got enquired from the Labour Department which were found to be fake. The State has seriously objected to the quashing of the FIR based upon compromise on the ground that the matter is serious in nature and also affects the society at large and there is need to further investigate the matter as to where such fake licences were used by the aforesaid societies and since what time the same was being done by the societies. Furthermore, an objection has also been raised that respondent No.2 – complainant was just an informant and he has no locus to compromise the matter with the petitioners and FIR cannot be quashed based upon compromise just because the complainant who was merely an informant had compromised the matter and therefore, it will not be in the interest of justice to quash the FIR in such like cases.

The law with regard to the quashing of FIR based upon compromise is no longer res integra. The Hon'ble Supreme Court in ***The State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (Crl.) 706.*** while referring to the earlier judgments of the Hon'ble Supreme Court laid down various parameters as to under what circumstances an FIR can be quashed based upon compromise. It is settled law that the High Courts while exercising powers under Section 482 Cr.P.C. must consider whether it would be unfair or contrary to the interests of justice to continue with the criminal proceedings or continuation of the criminal proceedings would tantamount to abuse of the process despite settlement and compromise arrived at between the victim and the wrong doer and

whether to secure the ends of justice, it will be appropriate that criminal case be put to an end and if the answer to the same is in the affirmative then the High Courts shall be within its jurisdiction to quash the criminal proceedings. However, such a power under Section 482 Cr.P.C. is to be exercised very sparingly and with caution and can be used only to secure the ends of justice or to prevent abuse of process of Court and while exercising the powers, the High Court is to see as to whether the possibility of conviction is very less or remote and continuation of criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. In nutshell, the decision as to whether an FIR is required to be quashed on the basis of compromise would be on the basis of facts and circumstances of each case and there can be no exhaustive elaboration of principles in this regard. Apart from the same, the Court is also to consider various other factors including the antecedents and conduct of the accused.

In the facts and circumstances of the present case, the allegations against the petitioners were that they had applied for tender to the Municipal Committee on the basis of forged labour licences. The verification of the labour licences was done by the Labour Department which found the same to be fake. As per the stand of the State, it is still to be investigated as to from which point of time such fake labour licences were being used and in what cases these were used for getting tender from various institutions including the Municipal Committee, Ladwa. Such

kind of allegations are not only serious in nature having high magnitude but affects the interests of society at large. Apart from the same, the compromise has been effected by the complainant who was only an informant and cannot be termed as the sole victim in the facts and circumstances of the present case and therefore, respondent No.2 – complainant had no competence to compromise with the petitioners for the purpose of seeking quashing of the FIR based upon compromise. Therefore, this Court is of the opinion that in the peculiar facts and circumstances of the present case, it will not be a fit case to quash the FIR based upon compromise. Another aspect which requires consideration in the present case is as to what will be the effect of the statements recorded by the parties in pursuance of the orders passed by this Court on 14.10.2019.

A perusal of the aforesaid order would show that this Court had directed the recording of the statements of the parties based upon compromise between the parties at preliminary stage and notice of motion was issued on the same date. In pursuance of those orders, the parties got their statements recorded before the Illaqua Magistrate/trial Court and thereafter, a detailed reply has been filed by the State opposing the prayer made by the petitioners for quashing of the FIR based upon compromise. The recording of the statements was only for the purpose of determining as to whether the compromise was genuine and voluntary or not and therefore, it will have no effect when the matter is being taken up for consideration on its own merits as to whether the compromise itself

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can become a foundation for quashing of the FIR based upon compromise or not.

In view of above, finding no merit in the present petition, the same is hereby dismissed.

November 8, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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