

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(221)

CRM-M-55073-2019

Date of Decision : December 09, 2021

Shubham and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Govind Chauhan, Advocate, for the petitioners.

Mr. Karan Garg, Assistant Advocate General, Haryana.

Mr. Ankit Aggarwal, Advocate, for respondents No. 2 to 4.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioners is for quashing of FIR No.952 dated 21.11.2019 registered under Sections 341 and 365 of the IPC at Police Station Karnal City, District Karnal and all other subsequent proceedings arising therefrom, on the basis of compromise entered into between the parties.

The Coordinate Bench of this Court while issuing notice of motion on 20.12.2019 had passed the following order:-

“This petition has been filed seeking quashing of FIR No. 952 dated 21.11.2019, registered for the alleged commission of offences punishable under Sections 341 and 365 of the IPC, at Police Station Karnal City, District Karnal, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondents no 2 to 4. A copy of the compromise deed has been

annexed as Annexure P-2 with the petition.

Notice of motion.

On the asking of the Court, Mr. Surender Singh, A.A.G., Haryana accepts notice on behalf of respondent no. 1.

Mr. Anil Bidhan, Advocate, appears and accepts notice on behalf of respondents no. 2 to 4 and has filed a power of attorney in Court today which is taken on record.

Requisite number of copies of the petition be handed over to learned counsel for the respondents during the course of the day.

Adjourned to 26.03.2020.

In the meanwhile, the petitioners as also respondents no. 2 to 4, would appear before the learned Area Magistrate up-to 24.01.2020 to record their statements. That court would satisfy itself with regard to the authenticity of the compromise reached and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

The Area Magistrate 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 take specific instructions as to whether any other criminal cases of like nature or otherwise, are pending against the petitioners.

It is to be noticed that though one of the offences alleged to have been committed is one punishable under Section 365 of the IPC, however, with the matter having been settled amicably, the above order has been passed.

Naturally, if it is found that there are other criminal cases registered against the petitioners, it would have to be seen very carefully as to whether respondents no. 2 to 4 have been pressurized into entering into a compromise, or it has

been entered into of their own free will.

If course there are no such other cases registered against the petitioners, that would be a different matter.”

A report has come from Additional Chief Judicial Magistrate, Karnal, addressed to the Registrar General of this Court dated 24.02.2020 along with the statements of the accused-petitioners 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. In the said report, it has been mentioned that Naveed, who is also a victim but is not a party to the compromise. The report of the Additional Chief Judicial Magistrate, Karnal, is as under:-

“I have the honour to submit that in compliance of order dated 20.12.2019 of Hon'ble High Court passed in aforesaid petition, on 11.02.2020, complainant Sohail (respondent No.2) and Hamida (respondent No.4) appeared and stated in writing that they have compromised the matter with accused and FIR may be quashed. Copy of that joint statement is Annexure-I.

On 11.2.2020 itself, petitioner No.1 Shubham, petitioner No.2 Ajay, petitioner No.3 Akshay, petitioner No.4 Rajat, petitioner No.5 Govind & petitioner No.6 Gautam appeared and they have stated in writing that they have compromised the matter with complainants. Copy of their joint statement is Annexure-II.

As per police report, copy of which is Annexure-III, petitioners/accused namely Shubham, Ajay, Akshay, Rajat, Gautam, Gobind and Hemant are not having any other criminal history.

According to this court, complainant/respondent No.2 Sohail and complainant/respondent No.4 Hamida have compromised the matter with petitioners/accused Shubham, Ajay, Akshay, Rajat, Gautam and Gobind without any pressure.

It is relevant to mention that petitioner/accused No.7 Hemant and complainant/respondent No.3 Dilshad did not appear to give statements regarding compromise.

Copy of remand papers shows that in the present case criminal law was set into motion on the statement of Sohail son of Dilshad vide which he alleged that six-seven persons abducted him. There assailants also forced Naveed son of Nasim to sit in the car. Assailants allegedly gave beatings to Sohail & Naveed son of Nasim. So, the allegations show that consent of Naveed son of Naseem who is not a party to the petition before the Hon'ble High Court is also required before quashing of FIR on the basis of compromise.

The above report is being sent for kind perusal.”

Learned counsel for the petitioners as well as counsel for respondents No. 2 to 4 submit that Naveed is minor son of respondent No.4 Hamida, who has already signed the compromise and has also given statement in favour of the compromise and therefore, the said objection may not be taken into consideration while considering the prayer of the petitioners.

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 respondents No. 2 to 4 admits the compromise as well as the statement made before the Additional Chief Judicial Magistrate, Karnal 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.952 dated 21.11.2019 registered under Sections 341 and 365 of the IPC at Police Station Karnal City, District Karnal 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.10000/- 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.

December 09, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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