

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

**CRM-M-32042-2016 (O&M)**

Date of decision : March 03, 2022

Karnail Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. R.S. Bajaj, Advocate  
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab

**ARVIND SINGH SANGWAN, J.**

Prayer in this petition is for quashing of FIR No.37 dated 21.3.2010 under Sections 420, 406 IPC and Section 24 of the E.M. Act, registered at Police Station Bholath, District Kapurthala and all other consequential proceedings arising out of the aforesaid FIR on the basis of compromise in the shape of affidavit dated 8.8.2016 arrived at between the parties, qua the petitioner.

This petition is pending since 2016 and on 27.11.2018 the parties were directed to get their statements recorded on the basis of the compromise. It was also noticed that the trial Court has sent a report in which respondent No.2-complainant has refused to record her statement with the allegation that Rs.2.5 lacs has not been paid to her, as per the compromise. It is also noticed that in an earlier statement on 12.5.2015, respondent No.2 has admitted having receiving the entire consideration on

behalf of the accused and, therefore, she cannot be permitted to backtrack as the amount is already paid.

Counsel for the petitioner has further submitted that the petitioner was, in fact, residing abroad when the trial Court recorded the statement of respondent No.2 on 12.5.2015, which reads as under : -

“The present case was registered on my statement against the accused Karnail Singh son of Sohan Singh, Kamaljit Kaur wife of Karnail Singh, Mohinder Kaur wife of Sohan Singh, Vijay Kumar and Jinder, all residents of village Majri, Police Station Balachaur, District Nawanshahr. With the intervention of the respectable, I have effected compromise with accused Kamaljit Kaur wife of Karnail Singh and Mohinder Kaur wife of Sohan Singh, resident of village Majri, Police Station Balachaur, District Nawanshahr. The compromise is for the benefit of both the parties and the compromise is out of my free will and mind without any pressure, coercion and threat. I have received entire consideration on behalf of present accused and other co-accused. With the compromise there will be peace amongst us. I may be allowed to compound the offence. I admit the compromise to be correct. I do not want to proceed further with the present case against any of the accused and other co-accused.

RO & AC  
Sd/- Harjit Kaur

Sd/-  
(Indu Bala)  
JMIC./Kpt. 12.5.2015”

Later on, vide order dated 12.5.2015, the trial Court, on the basis of the said statement has compounded the offence qua two of the

accused, namely, Kamaljit Kaur and Mohinder Kaur. Kamaljit Kaur is the wife of present petitioner Karnail Singh. The said order reads as under :-

“1. The complainant through her counsel has moved an application for seeking permission to compound the offence against the accused Kamaljit Kaur and Mohinder Kaur and on the said application the file has been pre-poned which was originally fixed for 30.5.2015.

2. Complainant has suffered a statement that with the intervention of respectable, she has effected a compromise with the accused Kamaljit Kaur and Mohinder Kaur. To keep harmony and peace, she does not want to pursue further with the present litigation and intended to compound the present case and requested that compounding be allowed and the accused be acquitted. The accused Kamaljit Kaur and Mohinder Kaur have also suffered a separate statement with regard to the compromise with the complainant. The complainant and accused have duly identified by their respective counsels.

3. Heard. Record perused. In this case accused are facing trial for offences punishable under Section 420 IPC and the said offence is legally compoundable in nature.

4. The ends of justice are achieved when peace comes in the society. In the case in hand, through the compromise,

the parties have reached at peace amongst them. The interest of justice demands granting the permission to the complainant to compound the offence with the accused. Accordingly, the present case stands compounded under Section 320(2) Cr.P.C. and in view of the compounding of the offences the accused Kamaljit Kaur and Mohinder Kaur stand acquitted.

5. Other accused namely Karnail Singh, Jinder and Vijay have already been declared as proclaimed persons and the complainant has not stated in her statement that she has compromised the matter with the said accused. Now, the file be consigned to the Judicial Record Room to be taken up as and when accused Karnail Singh, Jinder and Vijay are arrested and brought before the Court.”

It is also submitted that even respondent No.2 has given an affidavit attested by the Executive Magistrate, Bholath to the effect that even she has compromised the case with petitioner-Karnail Singh and she has no objection if the Court discharges him in the offence.

Counsel for the petitioner also submits that the entire payment has been made to the respondent-complainant. However, taking the advantage of the fact that the petitioner was abroad and was declared a proclaimed offender at the relevant time when the trial Court on the basis of the statement of respondent No.2 compounded the offence qua two of the

accused, namely, Kamaljit Kaur and Mohinder Kaur on 12.5.2015. The counsel further submits that out of greed, respondent No.2 has refused to make the statement and has backed out of her earlier statement given in the Court.

Counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court passed in Mohd. Shamim Vs. Smt. Nahid Begum, 2005(3) SCC 302, wherein it has been held that where a party, in pursuance to a compromise, has taken the money but has refused to acknowledge the same in the Court, the Court can quash the FIR.

Reply by way of affidavit of DSP, Sub Division Bholath, District Kapurthala is on record in which it is stated that the petitioner was declared a proclaimed offender and, therefore, the offence cannot be compounded in terms of Section 320 Cr.P.C. It is also stated that two of the accused, namely, Jinder and Vijay were also declared proclaimed persons. However, it is admitted that Kamaljit Kaur and Mohinder Kaur were acquitted by the trial Court on 12.5.2015. It is worth noticing that no reply has been filed on behalf of respondent No.2, despite the fact that the case is pending since 2016. Learned State counsel has also stated that out of 15 prosecution witnesses, 04 have already been examined.

In reply, the counsel has stated that the petitioner was granted the concession of anticipatory bail by the Additional Sessions Judge, Kapurthala on 10.7.2018 and since then he is regularly appearing before the trial Court and, therefore, the order declaring him a proclaimed offender stands set aside.

Counsel, appearing for respondent No.2, has submitted that the compromise was only with regard to the two accused and not with the petitioner. However, he could not dispute that respondent No.2-Harjit Kaur has given a statement before the trial Court on 12.5.2015 acknowledging that she has received the entire consideration on behalf of the two accused Kamaljit Kaur and Mohinder Kaur as well the other co-accused, i.e. petitioner-Karnail Singh.

After hearing the counsel for the parties and considering the facts and circumstances of the case, I find merit in this case for the following reasons :-

- (a) Respondent No.2-Harjit Kaur has made a statement on oath before the trial Court on 12.5.2015 that she has compromised the case on receiving the entire consideration with all the five accused and the compromise is to bring peace amongst the two parties and she has no objection if the Court compound the offences and do not want to proceed further against any of the accused or other co-accused.
- (b) The statement itself reflects that respondent No.2 has effected a valid compromise of her own free will with all the five accused persons, including the petitioner. However, the proceedings were compounded against two accused as the other three

accused, including the petitioner were not appearing before the trial Court as they were declared proclaimed persons.

- (c) The counsel for the complainant could not dispute that the petitioner at that particular time was not in India and was residing abroad and, therefore, he could not appear before the trial Court.
- (d) It is also not disputed that since 2018 when the petitioner appeared before the trial Court, he was granted the concession of anticipatory bail and is facing the trial.
- (e) It is also not disputed by the counsel for the complainant that the complainant has even sworn in affidavit attested by the Executive Magistrate Bholath, that she has even compromised with petitioner-Karnail Singh and has no objection if he is discharged by the Court.
- (f) The learned State counsel also could not dispute about the fact that two of the co-accused, on the basis of the compromise, already stand discharged as the offences were compoundable by the trial Court.
- (g) In view of the judgment of Hon'ble Supreme Court passed in case (supra), once respondent No.2 has

entered into a valid compromise, which was acted upon by herself by making a statement on oath before the trial Court and the trial Court even accepted the same qua two of the co-accused, respondent No.2 cannot be permitted to backtrack the said statement.

Accordingly, this petition is allowed and the FIR No.37 dated 21.3.2010 under Sections 420, 406 IPC and Section 24 of the E.M. Act, registered at Police Station Bholath, District Kapurthala and all other consequential proceedings arising therefrom are quashed.

**( ARVIND SINGH SANGWAN )  
JUDGE**

**March 03, 2022**  
satish

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No