

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-34244-2017
Date of Decision :03.02.2022

Vicky @ Rajwinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harpreet Singh Rakhra, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Ms. Nimarta Kaur, Advocate for respondent No.2.

Harsimran Singh Sethi, J. (Oral)

Present petition has been filed for quashing of FIR No.103 dated 17.08.2017 registered under Sections 341, 342, 323 and 34 of the IPC at Police Station Phul, District Bathinda and all other proceedings arising therefrom on the basis of compromise, which has been entered into between the parties.

On 02.12.2021, this Court had passed the following order:-

“CRM-39685-2021

The present application has been for preponing the date of hearing in CRM-M-34244-2017, which has been filed for quashing of FIR No.103 dated 17.08.2017 registered under Sections 341, 342, 323 and 34 of the IPC at Police Station Phul, District Bathinda on the basis of compromise, which has been entered into between the parties.

Learned counsel for the applicants-petitioners submits that though, notice of motion

has been issued in the main petition, but keeping in view the restrictive working of this Court due to the pandemic of Covid-19, the main petition has now been adjourned to 27.06.2022 and non-hearing of the petition is causing prejudice to the applicants-petitioners.

Notice of the application to the counsel opposite.

Mr. Sandeep Singh Deol, DAG, Punjab and Ms. Nimarta Kaur, Advocate, who are present in the Court accepts notice on behalf of the respondent-State and respondent No.2 respectively and raises no objection for the grant of prayer as made in the application for preponing the date of hearing in the main petition.

Keeping in view the same, the application is allowed. Date of hearing in the main petition is preponed from 27.06.2022 to today.

CRM-M-34244-2017

Present petition has been filed for quashing of FIR No.103 dated 17.08.2017 registered under Sections 341, 342, 323 and 34 of the IPC at Police Station Phul, District Bathinda on the basis of compromise, which has been entered into between the parties.

Learned counsel for the petitioners submits that the parties in order to live peacefully have entered into compromise on 01.09.2017 (Annexure P-2 & P-3), according to which, both the parties have agreed not to proceed further with the FIR in question.

Learned counsel for respondent No.2 does not dispute the above said compromise, which has been arrived at between the parties, according to which, complainant does not wish to press the allegations alleged in the FIR any further.

Adjourned to 03.02.2022.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement dated 01.09.2017 (P-2 & P-3) on 20.12.2021 by moving an 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 of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.

The question of imposition of cost for wasting the valuable time of the police as well as the Court will be assessed and imposed at the time of the final hearing of the present petition in case, the FIR is to be quashed.”

A report dated 25.01.2022 has come from Sub Divisional Judicial Magistrate, Phul, addressed to the Registrar General of this Court 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 genuine, voluntary and without any coercion or undue influence and none of the accused has been declared as proclaimed offender and no other criminal proceedings are pending against them. The relevant portion of the report is as under:-

1.“As per the statement of ASI Arjan Singh No.571/BTI, P.S. Phul there are only three accused in the present case. As per the statement of complainant Nikka Singh @ Sukhmander Singh, the present FIR was lodged by him against accused Vicky @ Rajwinder Singh, Sarabjeet Singh, Sukhwinder Singh @ Toti only.

2. As per the statement of ASI Arjan Singh No.571/BTI, P.S. Phul, no accused has been declared proclaimed offender.

3. The compromise effected between the parties appears to be genuine ad valid and without any coercion or undue influence Statements of parties were duly recorded before the undersigned and they were duly identified by their respective counsel.

4. As per statement of ASI Arjan Singh No.571/BTI, P.S. Phul, the accused person namely Rajwinder Singh and Sarabjeet Singh are not involved in any other FIR whereas accused Sukhwinder Singh @ Toti is involved in FIR No.135 dated 28.10.2019 under Sections 61/1/14 of Excise Act, P.S. Phul.

5. As per the statement of ASI Arjan Singh No.571/BTI, P.S. Phul, there is only once complainant/victim namely Nikka Singh @ Sukhmander Singh and three accused persons namely, Rajwinder Singh, Sarabjeet Singh, Sukhwinder Singh @ Toti in the present case and all of them appeared in the Court and suffered a statement with regard to the compromise.”

Learned counsel for the petitioners submit 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 respondent No.2-complainant admits the compromise as well as the statements made before the Sub Divisional Judicial Magistrate, Phul 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 hereinbefore 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, FIR No.103 dated 17.08.2017 registered under Sections 341, 342, 323 and 34 of the IPC at Police Station Phul, District Bathinda and all other 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.15,000/- 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 Account No.014894600000970, Yes Bank Branch, SCO 151/152, Sector 9-C, Chandigarh or A/C No.100035657241 of Indusind Bank Sector 54 Phase II Mohali Branch by the petitioners.

February 03, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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