

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-25867-2022

Date of Decision: 06.09.2022

Nitu Goyal and another

.... Petitioners

Versus

U.T. Chandigarh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sandeep Jain, Advocate for the petitioners.

Mr. J.S. Toor, APP for U.T. Chandigarh-respondent No. 1.

Mr. Rajiv Joshi, Advocate for respondent No. 2-Bank.

ASHOK KUMAR VERMA, J. (ORAL)

Pursuant to the order dated 04.07.2022, passed by a co-ordinate Bench of this Court, learned counsel for the petitioners has produced a copy of receipt No. 5537 dated 07.07.2022, with regard to deposit of cost of Rs.30,000/- with the “Poor Patients Welfare Fund” of the Post Graduate Institute of Medial Education and Research (PGIMER), Chandigarh. The same is taken on record.

The petitioners have filed the present petition under Section 482 Cr.P.C. for quashing FIR No. 123 dated 15.04.2014 (Annexure P-1) registered under Sections 420 and 120-B IPC at Police Station Sector-17, Chandigarh and the order dated 18.02.2019 (Annexure P-5), vide which the petitioners have been declared Proclaimed Offenders, as the One

Time Settlement (OTS), has been arrived at between the petitioners and respondent No. 2-Bank and the whole of the outstanding amount has been paid to respondent No. 2.

Briefly stated that the present FIR was got registered by respondent No. 2-Bank against the petitioners and their co-accused, namely; Bhupesh Goyal and Deepti Goyal, brother and sister-in-law of petitioner No. 2-Gaurav Goyal, on the allegations that a term loan of Rs.40,00,000/- was sanctioned in favour petitioners and their co-accused on 17.03.2010 and the said loan was secured by the personal guarantees of the petitioners and their co-accused. Property measuring 3 biswa 4 biswasi comprised in Khata No. 81/82 Khasra No. 847/604/153 measuring 160 Sq. Yards situated in Bandana Nagar, Village Dhakoli, Zirakpur, District SAS Nagar, owned by the petitioners was equitably mortgaged with the Bank. The petitioners along with their co-accused have illegally sold the said mortgaged property in favour the third party, namely, Kanta Kansal W/o Sunder Mohan Kansal, vide registered sale deed dated 08.12.2010, in order to defraud the bank. Later on, the matter has been resolved between the parties and vide letter dated 07.03.2015 (Annexure P-3) respondent No. 2-Bank has accepted One Time Settlement (OTS) proposal offered by the petitioners to the effect that against the dues of Rs.40.30 Lakhs, compromise was accepted on payment of Rs.31.50 Lakhs, towards full and final settlement. The petitioners have deposited the entire amount with respondent No. 2-Bank and in lieu thereof, the respondent-Bank, had issued 'No Dues Certificate' dated 23.07.2015 (Annexure P-4), in favour of the petitioners and their

co-accused and loan account of the petitioners was closed. Since, the matter has been settled with respondent No. 2-Bank, the petitioners were under the impression that there is no need to appear before the trial Court. The trial Court vide impugned order dated 18.02.2019 (Annexure P-5) declared the petitioners as 'proclaimed persons' and issued directions to the concerned SHO for taking appropriate action against the proclaimed persons, in accordance with law. Hence, the present petition.

Learned counsel for the petitioner contends that the dispute between the parties is purely of civil nature. The FIR in question was registered against the petitioners on account of loan amount advanced from respondent No. 2-Bank, on the basis of forged documents. He further contends that the dispute between the parties already stood resolved and the entire outstanding amount was repaid by the petitioners to the respondent-Bank and 'No Dues Certificate' dated 23.07.2015 (Annexure P-4) was issued by the Bank in their favour. Thus, he contends that once the entire amount had already been paid by the petitioners to respondent No. 2-Bank, no useful purpose would be served by continuing with the criminal proceedings in the impugned FIR.

Learned APP for U.T. Chandigarh and learned counsel for respondent No. 2-Bank, have fairly conceded that matter has been compromised between the parties and the entire outstanding amount has already been paid by the petitioners to respondent No. 2-Bank.

Learned counsel for respondent No. 2-Bank, has also filed reply dated 01.09.2022 by way of affidavit of Sh. Abhishek Ranjan, Assistant General Manager, Indian Bank, Sector-17 B Chandigarh, in

Court today and the same is taken on record. It has been averred in the reply that the bank has accepted one time settlement offered by the petitioners and after the deposit of entire amount as per one time settlement, 'No Dues Certificate' dated 23.07.2015 (Annexure P-4) was issued by the bank in favour of the petitioners and the loan account of the petitioners has been closed. The respondent-Bank has no objection, if, FIR No. 123 dated 15.04.2014 (Annexure P-1) is quashed.

I have heard learned counsel for the parties and has perused the paper-book.

It is not in dispute that petitioners in the present case were declared as proclaimed persons vide order dated 18.02.2019 (Annexure P-5). It is also not disputed that the matter already stood resolved and the entire outstanding amount was repaid by the petitioners to the respondent-Bank and 'No Dues Certificate' dated 23.07.2015 (Annexure P-4) was issued by the Bank in their favour. The cost of Rs.30,000/- in terms of order dated 04.07.2022, passed by a co-ordinate Bench of this Court also stands deposited by the petitioners vide receipt No. 5537 dated 07.07.2022.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of *Gian Singh vs. State of Punjab and anr.*, **2012 (4) RAJ 549**, wherein also it has been held that proceedings may be quashed having overwhelmingly and pre-dominatingly civil flavour such as offence arising from commercial financial, mercantile, civil, partnership or such like transaction or the offences arising out of matrimony relating to dowry etc. of the family disputes where the wrong

is basically private or personal in nature and the parties have resolved their entire dispute.

Keeping in view the above facts and circumstances, the present petition is allowed and FIR No. 123 dated 15.04.2014 (Annexure P-1) registered under Sections 420 and 120-B IPC at Police Station Sector-17, Chandigarh, as well as the order dated 18.02.2019 (Annexure P-5), whereby the petitioners were declared as proclaimed persons and all the subsequent proceedings arising therefrom, are hereby quashed.

September 06, 2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No