

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CRM-M-50931-2021

Date of Decision :03.02.2022

Kashmir Singh and another

...Petitioners

Versus

State of Haryana and another

...Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurinder Singh Goraya, Advocate for the petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. Anupinder Singh Brar, Advocate for respondent No.2.

Harsimran Singh Sethi, J. (Oral)

Present petition has been filed for quashing of FIR No.265 dated 29.11.2020 registered under Sections 323, 324, 341, 506, 34 of the IPC and Sections 3(1) (a), 3(1) (r), 3(1) (s), 3(2), 3(2) (v), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act, 1989, at Police Station Ismailabad, District Kurukshetra, on the basis of compromise entered into between the parties.

On 06.12.2021, this Court had passed the following order:-

“Present petition has been filed for quashing of FIR No.265 dated 29.11.2020 registered under Sections 323, 324, 341, 506, 34 of the IPC and Sections 3(1) (a), 3(1) (r), 3(1) (s), 3(2), 3(2) (v),

3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ismailabad, District Kurukshetra, on the basis of compromise entered into between the parties.

Learned counsel for the petitioners argues that the allegations with regard to Sections 3(1) (a), 3(1) (r), 3(1) (s), 3(2), 3(2) (v), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are personal in nature and can be quashed on the basis of judgment of the Hon'ble Supreme Court of India in Criminal Appeal No. 1393 of 2011 titled as ***Ramawatar Vs. State of Madhya Pradesh***, decided on 25.10.2021. Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into compromise on 24.11.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of respondent No. 1.

Mr. Anupinder Singh Brar, Advocate appears in Court and accepts notice on behalf of respondent No. 2. He admits the factum of the compromise entered into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 03.02.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 22.12.2021 by moving 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 24.12.2021 has come from Additional District & Sessions Judge, Kurukshetra 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:-

“Now keeping in view the statements as referred above, it transpires that there are only two accused involved in the instant FIR; that these accused have never been declared proclaimed offender; that the compromise is genuine, voluntarily and without any coercion and undue influence took place among the parties to the matter; that these accused persons are not involved in any FIR now and as per statement of Investigating Officer, Gurmail Singh, accused Kashmir Singh was involved in FIR under the Punjab Excise Act but in that case, he had already been acquitted in the year 2000. That there is only one complainant/victim and accused are party 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 admits the compromise as well as the statements made before the Additional District & Sessions Judge, Kurukshetra 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 settled principle of law settled by the Hon'ble Supreme Court of India in Crm. Appeal No.1393 of 2011 titled as **Ramavtar vs. State of Madhya Pradesh** decided on 25.10.2021, the allegations, due to which, sections under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are private in nature, the same can also be quashed on the basis of compromise. Thus, the present is a fit case to exercise the said jurisdiction by this Court.

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 there are no other criminal cases pending 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.265 dated 29.11.2020 registered under Sections 323, 324, 341, 506, 34 of the IPC and Sections 3(1) (a), 3(1) (r), 3(1) (s), 3(2), 3(2) (v), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ismailabad, District Kurukshetra 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
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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