

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59690-2022
Date of decision : 22.12.2022

Alka Kalra

..... Petitioner

versus

Deepak Jain

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ajit S. Lamba, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

Present petition has been filed against the order dated 17.10.2022, whereby the application filed by the petitioner for withdrawal of compromise/confessional statement dated 15.11.2021 stands dismissed.

2. Petitioner has been summoned to face trial under Section 138 of the Negotiable Instruments Act (in short 'N.I. Act') vide order dated 22.05.2019. On appearance, the petitioner claimed his right to cross-examine the complainant by filing application under Section 145(2) of the N.I. Act on 12.04.2021. The same was allowed and the matter was adjourned to 08.07.2021 for cross examination of the complainant. However, on 15.11.2021 petitioner suffered a statement to the following effect:-

“Stated that I do not want to cross-examine the complainant. I withdraw my application under Section 145(2) of N.I. Act. Further stated that I have compromised the matter with the complainant for Rs.46,50,000/- as full and final settlement in the present case. I will pay an amount of Rs.25,00,000/- on or

before 15.01.2022 and remaining Rs.21,50,000/- on or before 28.02.2022 to complainant. I will not seek any other opportunity for making payment.”

3. Admittedly, the petitioner did not comply with the said statement and thereafter the application was moved praying for withdrawal of the statement enumerating following grounds:-

- “(a) That the compromise was arrived at for Rs 20 lacs. Out of this amount of Rs. 17 lacs has been paid. The applicant has come today with the rest of the money of Rs. 3 lacs. When this amount was being paid to the complainant, he refused to withdraw the complaint as the statement was for of Rs.46,50,000/-.
- (b) That the applicant came to know of this blunder only today. Her counsel checked the file and endorsed the words of complainant.
- (c) That on 15.11.2021, when the statement/ confession was made, the complainant was not informed about the complicity of the statement and she never knew that it could be used against her.
- (d) That the complainant was not asked and enquired that whether the statement was made by her voluntarily or she was under any threat etc. Infact on that day she had come alone in the Court. She was put under undue influence, threat and pressure by the complainant, her family member and Sh. Balwant Jain. She was asked either to make signature on the statement or for dire consequences.
- (e) That the statement for compromise/confession was not recorded as per the provisions of Section 281 Cr.P.C.

(f) That the applicant is a housewife and she does not know the impact and complications of her statement.”

4. The same stands rejected by the trial Court holding that the Court cannot be just a mute spectator to the proceedings and the petitioner cannot be allowed to withdraw the statement recorded on 15.11.2021.

5. Counsel for the petitioner has emphatically argued that the trial Court completely misdirected itself by dealing the statement dated 15.11.2021 as a confession. In fact, the same was suffered after the petitioner entered into a compromise. The compromise being matter of solicitation. The parties are always free to repudiate the same and in case of such repudiation, the trial Court ought to have restored the complaint to its original position thereby commencing from the stage wherein the application under Section 145(2) of the Act filed by the petitioner stands allowed and the matter could have been fixed for cross-examination of the complainant. Reliance is being placed upon the judgment passed by this Court in *Anil Kumar Hooda vs. Grand Filaments Pvt. Ltd.*, whereby it has been held that:-

“Since the complaint was got disposed of on the basis of compromise which compromise later on proved to be farce, the complaint having been got dismissed by playing a fraud on the Court as such the Court has jurisdiction to revive the complaint and the bar of Section 362 Cr.P.C will not be available.”

6. I have heard counsel for the petitioner and have gone through the records of the case.

7. Though at the first blush, the plea raised by counsel for the petitioner appears to be attractive, yet on the careful perusal of the statement dated 15.11.2021, it is evident that on the said date, the petitioner in fact

withdrew her application filed under Section 145(2) of the N.I. Act. Further, the petitioner was unambiguous that she will not seek any other opportunity for making payment. In view of the aforesaid facts, this Court is of the considered opinion that the trial cannot be allowed to derailed and process of law cannot be allowed to be abused at the hands of unscrupulous litigant who intends to delay the trial. Petitioner has successfully been able to do so by over an year.

8. In view of the aforesaid facts, no ground to interfere while exercising jurisdiction under Section 482 Cr.P.C. is made out. Consequently, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

22.12.2022

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No