

CRM-M-2363 of 2020 (O&M)

Date of Decision: February 27, 2023

...Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Payal Mehta, Advocate for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

Mr. Jasdeep Singh, Advocate for Mr. Pardeep Kumar
Kapila, Advocate for respondent No.2.

DEEPAK GUPTA, J.

Prayer in this petition is to quash Criminal Complaint bearing Sessions Case No.11/06.02.2017 titled '**Roop Singh Vs. Jarnail Singh and others**' under Sections 500, 211 and 120-B IPC read with Section 3 (1) (viii) of SC/ST (Prevention of Atrocities) Act, 1989, pending in the Court of learned Additional Sessions Judge/ Special Judge, Ropar (Annexure P.1) and all the subsequent proceedings arising therefrom.

2. Complaint in question (Annexure P.1) was filed by respondent – complainant Roop Singh to prosecute seven accused – four private persons, namely, Jarnail Singh, Bhupinder Singh, Mohinder Singh and Amarjit Singh; and three police officials, namely, Balwant Singh Majithia, SHO (petitioner), ASI Paramjit Singh and HC Dharampal. After recording preliminary evidence, learned Judicial Magistrate Ist Class, Ropar vide order dated 06.06.2014 (Annexure P.3) directed summoning of five of the accused, namely, Jarnail Singh,

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Bhupinder Singh, Mohinder Singh, Amarjit Singh besides petitioner (Balwant Singh Majithia), to face trial for committing the offences under Section 500 IPC read with Section 3(1)(viii) of SC & ST Act and Section 211 and Section 120-B IPC. Accused No.6 and 7 i.e. ASI Paramjit Singh and HC Dharampal were not summoned. Matter was then committed to the Court of Sessions, where charges were framed.

3. It is contended by the petitioner that during proceedings before learned Additional Sessions Judge, Ropar, compromise was arrived at between the private parties on 12.01.2018, copy of which is Annexure P.4. On the basis of that compromise, quashing petition No.***CRM-M-2508 of 2018 titled Jarnail Singh and others Vs. State of Punjab and another*** was filed by the private parties before this High Court, wherein they were directed to get their statements recorded before the trial Court. It is contended that at the time of recording the statements before the trial Court, upon the specific asking by the trial Court, the complainant- respondent No.2 willingly agreed and got recorded statement to the effect that he had compromised the matter with all the accused and did not want to proceed further against any of the person involved in the occurrence. He further stated that he had no objection, if the complaint was quashed against all the accused. Copy of that statement is Annexure P.6. Statement of the petitioner was also recorded, copy of which is Annexure P.7. After considering these statements, this High Court vide order dated 25.01.2019 Annexure P.2 in CRM-M-2508 of 2018 was pleased to quash the complaint and the subsequent proceedings.

4. Grievance of the petitioner is that despite quashing of the complaint by this Court, petitioner has not been discharged by the trial Court and has been directed to face the trial. Petitioner approached the complainant – respondent No.2 for filing the quashing petition on the basis of compromise but he started making excuses and demanded gratification for the same. It is contended that after the statements of the parties recorded before the trial Court and the order dated 25.01.2019 passed by this High Court quashing the complaint and subsequent proceedings in CRM-M-2508 of 2018, continuation of the proceedings before the trial Court against the petitioner is not justified.

5. Upon notice, though appearance has been made on behalf of respondent No.2, but no reply has been filed. However, learned counsel for respondent No.2 opposed the prayer of the petitioner by submitting that compromise had been effected only amongst the private parties and that no compromise was effected between the petitioner and respondent No.2 – complainant.

6. I have considered the submissions of both sides and perused the record.

7. It is not disputed by the petitioner that he was not a party to CRM-M-2508 of 2018, wherein private parties had entered into compromise and this Court had directed the parties to get their statements recorded before the trial Court.

8. However, learned counsel for the petitioner has drawn attention towards the statements made by respondent- complainant before the trial Court and, thereafter, the statement of the petitioner, which he

had made before the trial Court showing that complainant had compromised the entire matter.

9. Although in the compromise deed Annexure P.4, it is mentioned that compromise has been effected between the parties except Balwant Singh Majithia, i.e. petitioner but the statement of complainant-respondent- Roop Singh Annexure P.5 made before the trial Court, states otherwise. The said statement of respondent- complainant Roop Singh reads as under:-

“Statement of Roop Singh, aged about 43 years, son of Kartar Singh, Property Dealer, Resident of 3298/129, Gobind Nagar, near JR Theater Ropar. On SA

*Stated that I have effected compromise with accused party regarding the present complaint. I have seen the copy of compromise which is correct according to the original already produced before the Hon’ble High Court and the said copy of compromise is Ex.P1. **The said compromise is genuine and both the parties i.e. complainant and all the accused of the present case have effected the said compromise without any undue influence or pressure.** I have filed the complaint against seven accused namely Jarnail Singh, Bhupinder Singh, Mohinder Singh, Amarjit Singh, Balwant Singh, Paramjit Singh and Dharampal Singh out of whom **Paramjit Singh and Dharampal were not summoned by the Ld. Lower Court and with rest of the accused I have compromised and I do not want to proceed against all the persons involved in the present occurrence.** The case may kindly be disposed of according to the said compromise. **I have no objection if the present complaint be quashed against all the accused and no other person is involved in this case except mentioned in complaint.***

RO&AC

Sd/-

Roop Singh

(Sunita Kumar Sharma)

ASJ, Ropar

08.03.2018.”

10. Thereafter, petitioner – Balwant Singh had made the statement Annexure P.6 before the trial Court, which reads as under:-

Statement of Balwant Singh, aged about 68 years son of Sham Singh resident of Kothi no.2263, Phase-10, Mohali.

On SA.

*Stated that I have effected compromise with complainant. I have also seen the compromise Ex.P1 which is true and correct. **The said compromise is genuine and both the (i.e. complainant and all the accused) have effected the said compromise without any undue influence or pressure.** I have heard the statement of the complainant duly endorsed by his counsel. Therefore, present complaint may kindly be quashed and there is no other person involved in the present occurrence.*

RO&AC

Sd/-

Balwant Singh

(Sunita Kumari Sharma)

ASJ, Ropar

08.03.2018”

11. From the aforesaid two statements, Annexures P.5 and P.6, it is evident that complainant of the case Roop Singh had not only compromised the matter with the private respondents but also with the petitioner of this case, i.e. Balwant Singh Majithia, as it is so specifically mentioned in his statement. In the last lines of his statement, it is unequivocally mentioned that he had no objection if the complaint is quashed against all the accused and that no other person is involved in the case except as mentioned in the complaint. It is only after the statement of the complainant – respondent- Roop Singh that statement of petitioner – Balwant Singh Majithia was recorded by the trial Court, in which he stated that he had effected the compromise with the

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complainant. The statement of petitioner was not to the effect that compromise was being effected by him in the capacity of the Investigating Officer of the criminal case. Rather, the words “stated that I have effected compromise with the complainant”, clearly reveals that said compromise was effected with the complainant by the petitioner as one of the accused of the case. The statements of the parties were recorded in the Court and so, there can be no reason to disbelieve the same.

12. In view of the aforesaid circumstances, it is clear that respondent- complainant Roop Singh had effected compromise not only with the private respondents but also with petitioner – Balwant Singh Majithia and, therefore, continuation of the proceedings of the complaint in question is not justified.

13. Consequently, Criminal Complaint bearing Sessions Case No.11/06.02.2017 titled ***Roop Singh Vs. Jarnail Singh and others***, under Sections 500, 211 and 120-B IPC read with Section 3(1) (viii) of SC/ST Act, 1989, pending in the Court of learned Additional Sessions Judge/ Special Judge, Ropar (Annexure P.1) and all the subsequent proceedings arising therefrom, are hereby quashed.

February 27, 2023

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No