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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5213-2023 (O&M)
Date of decision :18.07.2023

Bhawjovan Kaur and another

... Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ajay Pal Singh, Advocate, for the petitioners.

Mr. Gurlal Singh Dhillon, Assistant Advocate General, Punjab.

Mr. Maninderjit Singh Bedi, Advocate, for respondent no.2.

None for respondent no. 3.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.04 dated 08.04.2022 (P-5), under Sections 406, 420, 120-B of the Indian Penal Code, registered at Police Station, NRI, Bathinda along with all consequential proceedings arising therefrom on the basis of compromise dated 23.12.2022 (P-1), entered into between the parties i.e. petitioners as well as respondent No.2.

2. The case of the prosecution is that petitioners Bhavjovan Kaur and Kamalpreet Kaur along with respondent no. 3 – Gagandeep Singh have committed breach of trust and fraud by concealing the fact regarding solemnization of second marriage and hatching money from complainant/ respondent no.2- Jaskirat Singh Dhillon.

3. The Co-ordinate Bench, on the previous date of hearing i.e. 23.03.2023, passed the following order:-

“The prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.04, dated 08.04.2022, under Sections 406, 420 120-B of IPC, 1860, registered at Police

Station NRI, Bathinda along with all subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties.

Mr. Maninderjit Singh Bedi, Advocate has appeared and has filed power of attorney on behalf of respondent No.2 today in the Court and the same is taken on record. He has affirmed the factum of compromise between the parties.

Learned counsel for the petitioner submits that challan is not presented against respondent No.3 and he will make statement before the trial Court that he does not intend to press the FIR against any of the accused.

Let notice be issued to respondent No.3 for the date fixed.

Let the parties to appear before the trial Court/Duty Magistrate, as the case may be, within a period of 30 days, for getting their statements recorded with regard to the compromise. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to Illaqa/Duty Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;*
- (ii) whether challan is presented in the Court? If so, against how many accused;*
- (iii) whether any of the accused was declared proclaimed offender at any stage of trial;*
- (iv) status/stage of the trial/case;*
- (v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;*
- (vi) to record the statement of Investigating Officer with regard to points No.(i), (ii), (iii) and (iv) as above.*

Report be sent through the District & Sessions Judge, before the next date of hearing.

Adjourned to 18.07.2023.”

4. In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate 1st Class, Bathinda and submitted a report dated 11.04.2023. The operative part of the same reads as under:-

“8. After going through the statements given by the parties and Investigating officer, the report of the trial Court/ Illaqa Magistrate is hereby submitted on the following points/ information as directed by the Hon’ble Punjab & Haryana High Court.

1	How many accused are facing the trial in the present case	As per the statement of Investigating officer SI Harpinder Kaur 107/BTRT, P.S. NRI Bathinda, the present FIR was registered against three persons namely Bhawjovan Kaur, Kamalpreet Kaur and Gagandeep Singh, in FIR No. 04 dated 08-04-2022. During investigation, Gagandeep Singh was placed in column No.2 of the report u/s 173 Cr.P.C. Challan has been presented against two accused namely Bhawjovan Kaur and Kamalpreet Kaur. Accused Bhawjovan Kaur and Kamalpreet Kaur are facing the trial.
2	Whether challan is presented in the Court ? if so against how many accused	As per the statement of Investigating officer SI Harpinder Kaur 107/BTRT, P.S. NRI Bathinda, challan has been presented against two accused namely Bhawjovan Kaur and Kamalpreet Kaur.
3	Whether any accused has been declared proclaimed offender at any stage of the trial	As per the statement of Investigating officer SI Harpinder Kaur 107/BTRT, P.S. NRI Bathinda, no accused has been declared as proclaimed offender at any stage of the trial.
4	Status/ stage of the trial	As per the statement of Investigating officer SI Harpinder Kaur 107/BTRT, P.S. NRI Bathinda, the trial is at charge stage.
5	Whether the compromise is genuine, voluntary and without any coercion or undue influence.	In view of statement suffered by complainant Jaskirat Singh and accused Bhawjovan Kaur and accused Kamalpreet Kaur and Gagandeep, it is submitted that complainant/ victim Jaskirat Singh and accused Bhawjovan Kaur are husband and wife and accused Kamalpreet Kaur is mother of accused Bhawjovan Kaur. The trial Court is satisfied that the compromise arrived between the complainant/ victim and accused persons is genuine, voluntary and without any coercion and undue influence.

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no objection by either of the parties against the compromise.

6. Further respondent no.3- Gagandeep Singh, who was placed in column no. 2 by the Investigating Agency, has also appeared before the learned Magistrate alongwith parties. Complainant Jaskirat Singh in the Court below deposed that he has no objection if FIR is quashed against all the accused persons including said Gagandeep Singh, who was already been declared innocent by the police.

7. Learned State Counsel, on instructions from the police official present in the Court, also submitted that they have no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

8. In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not involve any public funds. Thus, quashing of the FIR in question along with consequential proceedings, on the basis of compromise would bring peace and harmony to secure the ends of justice.

9. Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners as well as respondent no.3 – Gagandeep Singh. The complainant is directed to deposit Rs. 5,000/- as costs with Advocates Welfare Fund, Punjab and Haryana High Court Bar Association, Chandigarh.

18.07.2023
VS

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No