

CRM-M-23213-2022
Decided on : 29.11.2023

..... Petitioners

..... Respondents

Manjari Nehru Kaul, J.(Oral)

3. Learned counsel for the complainant-respondent No.2 has not disputed that it was petitioner No.1, who was also one of the owners of the

Immigration Company, which had allegedly duped him of an amount of Rs.9.13 lakhs on the pretext of sending him abroad.

4. Vide order dated 26.05.2022 passed by the Coordinate Bench of this Court, parties had been directed to appear before trial Court/Illaqa Magistrate to get their statements recorded with regard to the compromise arrived at between them.

5. Report dated 05.07.2022 has since been received from the learned CJM, Chandigarh in pursuance of the directions of this Court. As per the report, compromise has indeed been effected between the parties and the same is without any pressure or coercion and out of their free will. The trial Court has annexed the photocopies of the statements of the parties alongwith its report. However, the trial court has reported that all the accused are not party to the compromise and it is only between three out of the six accused.

6. Learned State counsel has, however vehemently opposed the prayer and submissions made by counsel appearing for the parties for quashing of the FIR in question on the basis of compromise effected between them. Learned State counsel, on instructions, has submitted that as many as six persons were named and sent up to stand trial by the police, however, the compromise had been effected only with three out of the six accused, which was impermissible and would be a travesty of justice as the allegations against the petitioners are much more serious as compared to the other accused with whom no compromise had been effected.

7. Heard learned counsel for the parties and perused the relevant material available on record.

8. For facility of reference, the relevant portion of the FIR is being reproduced, which is as under:

“That the applicant has come to know that Kamal Bhumbra is the owner of the said firm and Archana Batra, Preeti Jolly and Preeti Gulati are the employees of the firm, who collected money from the applicant.”

9. A perusal of the FIR in question reveals that the FIR in question was registered against six persons including the petitioners. The petitioners, who were running a travel agency namely B.N.Overseas Edu. Services, have approached this Court seeking quashing of the FIR in question. As per, the allegations levelled, the other accused, to whose exclusion the present petition has been filed, were mere employees in the travel agency run by the petitioners. It was the petitioners, who were at the helm of affairs in the travel agency. Thus, the three accused, who are not party to the compromise played a much trivial role in the crime in question, in comparison to the petitioners, who were running the travel agency. It has not been disputed by the counsel for the petitioner that remaining accused Archana Batra, Preeti Jolly and Preeti Gulati were working as employees in the travel agency of petitioner No.1 and pertinently the money, as per the FIR also, was given to petitioners No.2 and 3.

10. Learned counsel for the parties have thus, failed to satisfy this Court as to how the FIR in question can be quashed qua the petitioners, who were running the travel agency, and were the major players in the crime in question, to the exclusion of the other accused, who being their employees, were acting at the behest of their employers. In the circumstances, this Court would be hesitant to partially quash the FIR in question qua the petitioners, based on a compromise (Annexure P-2) affected between the petitioners and the

complainant. Doing so would result in miscarriage of justice, if the prime accused were allowed to go scot-free, while the co-accused, who were employed in the travel agency of the petitioners and had minimal involvement in the crime, were left to face trial. Consequently, it would undermine the societal and legal intent embodied within Section 482 Cr.PC.

11. This Court in ***Yatin @ Mithu and another vs. State of Haryana and another (CRM-M-7450-2022) decided on 13.01.2023*** has also held as under:

“This Court has no hesitation in observing that a danger indeed runs in quashing such FIRs including partial quashing on the basis of a compromise where all the accused have been attributed identical roles, and some of the accused have been able to enter into a compromise with the complainant by either pressurizing him or exercising undue influence or coercion. It cannot be over emphasized that there could be cases where the accused/offenders holding influential positions or being in a sound financial position would go scot free, and on the other hand, an accused, who may not be able to influence the complainant or induce him to effect a compromise would be left to face trial.

Another scenario could be and which has been coming to the notice of this Court is that an accused, who has been attributed the main role in the crime in question, has compromised the matter with the complainant, whereas the other accused named in the FIR and in some cases not even named but nominated pursuant to a disclosure statement and still further, attributed only minor role(s) in the crime in question had been left to face trial on account of no compromise effected between him/them and the complainant. Without doubt, this would run contrary to securing the ends of justice and the spirit of compromise, and thereby rendering

the social and legal purpose behind Section 482 Cr.PC nugatory.”

12. No doubt, the powers of this Court under Section 482 Cr.PC are very wide but they are certainly not unbridled. This Court is to thus, exercise these powers with a great deal of circumspection. Hence, in the wake of the above discussion, this Court does not deem it fit to quash the FIR in question qua the petitioners.

14. Accordingly, the present petition stands dismissed.

29.11.2023

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No