

2023: PHHC: 138579

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25825-2022

Reserved on: 17.10.2023

Pronounced on: 30.10.2023

URMIL MITTAL AND OTHERS

. . . . Petitioners

Vs.

STATE OF HARYANA AND ANOTHER

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Vikas Gulia, Advocate, for the petitioners.

Mr. Vipul Sherwal, AAG, Haryana.

None for respondent No.2.

DEEPAK GUPTA, J.

Petitioners No.1 to 3 are the directors of petitioner No.4 - Shreyash Retail Pvt. Ltd. By way of this petition filed under Section 482 CrPC, petitioners have prayed for quashing of FIR No.0562 dated 29.09.2021 (Annexure P1) registered at Police Station Sector 32-33, Karnal, under Sections 406/409/417/420 IPC along with all the subsequent proceedings arising therefrom.

2. It is contended by ld. Counsel that same FIR qua co-accused-Flipkart Internet Private Limited, has already been quashed by a Coordinate Bench of this Court vide order dated 03.05.2023 passed in CRM-M-11222-2022, after the claim of the complainant-respondent No.2 was duly satisfied.

3. As the paper-book reveals, complaint was filed by respondent No.2 Dr. Aarushi Singh in the Court of Id. Judicial Magistrate, Karnal, alleging that she had purchased iPhone 11 Pro Max through online portal of Flipkart Internet Private Limited and that order in this regard was placed to accused-Shreyash Retail Pvt. Ltd. Complainant had made online payment of ₹1,11,001/- for purchasing the said Apple iPhone. However, on getting delivery and on opening the mobile phone box, it was found that it contained a counterfeit product. With these allegations, criminal action was sought against the accused-Shreyash Retail Pvt. Ltd. and Flipkart Internet Private Limited for committing cheating and criminal breach of trust.

4. It is contended by Id. Counsel that complainant also filed an application before District Consumer Dispute Redressal Commission, Karnal, where the matter was settled amongst the parties after the amount of ₹1,11,001/- i.e. the cost of the mobile set in question was paid to the complainant by Flipkart Internet Private Limited. Id. Counsel has drawn attention towards order dated 03.05.2023 passed by Coordinate Bench of this Court in CRM-M-11222-2022, whereby similar petition to quash the FIR in question as filed by Flipkart Internet Private Limited, was quashed, and in which it was noticed by this Court that compromise had already been effected as complainant had been paid the amount of ₹1,11,001/- and so, she had no objection for quashing the FIR.

5. Respondent No.2-complainant was duly served. Even appearance on her behalf was made, but at the time of hearing on 17.10.2023, nobody put in appearance on behalf of respondent No.2-complainant.

6. Heard.

7. Order dated 03.05.2023 passed by Coordinate Bench of this Court in CRM-M-11222-2022 reads as under: -

"Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.562 dated 29.09.2021 registered under Sections 406, 409, 417 and 420 IPC, at Police Station Sector 32-33, Karnal alongwith all the subsequent proceedings arising therefrom.

As per facts of the case, the complaint was filed in the Court of learned Illaqa Judicial Magistrate, Karnal by Dr. Aarushi Singh on account of cheating and criminal breach of trust against Shreyash Retail Private Limited and Flipkart Internet Private Limited. On the basis of the allegations made in the complaint, it was prayed that in view of the direction/guidelines of the learned Apex Court in Lalita Kumari vs. State of UP and others, it is mandatory that FIR be lodged by the Police. It was further prayed that keeping in view of the facts of the above case, the Court may pass an order under Section 156(3) Cr.P.C. for registration of the FIR. On the basis of the same, the present FIR was registered.

Learned counsel for the petitioner has submitted that though the present petition has been filed for quashing of the FIR on the basis of merits, however, during the pendency of the petition, the petitioner entered into a compromise with the respondent-complainant and thus, prayed before this Court for quashing of FIR on the basis of the compromise arrived at. He has produced on record the order dated 11.02.2023 passed by the District Consumer Disputes Redressal Commission, Karnal, which reads as under:-

"Today the case is fixed for compromise in National Lok Adalat.

Compromise effected. Learned counsel for the OPs has suffered a separate statement to the effect that the OP No.2 i.e. Flipkart Internet Private Limited is ready to pay the cost of the mobile set in question i.e. Rs.1,11,001/- to the complainant. The complainant has got registered FIR against the OPs and now the matter has been settled amicably. Petition with regard to quashing of the FIR is pending before the Hon'ble High Court. After receiving the cost of the mobile, as per the compromise, complainant has agreed to give no objection for quashing the said FIR.

On the other hand, learned counsel for the complainant has suffered a separate statement to the effect that in view of the statement made by the learned counsel for the OPs, he wants to withdraw the present complaint being compromised and fully satisfied. He further stated that complainant will bound to give the no objection with regard to quashing the FIR after receiving the cost of the mobile set in question.

In view of the statements made by the learned counsels of both the parties, the present complaint is hereby dismissed as withdrawn being compromised. Both the parties would be governed by the statements made by their respective counsels.

Parties concerned be communicated of the order accordingly and file be consigned to the record room.”

Learned counsel for respondent No.2 has endorsed the submissions made by learned counsel for the petitioner and has submitted that both the parties have entered into a compromise and the inter-se dispute has been amicably settled and the complainant has received the cost of the mobile as per settlement. He submits that as per instructions provided to him, the complainant has no objection, if the present FIR is quashed.

I have heard learned counsel for the parties, perused the order dated 11.02.2023 passed by the District Consumer Disputes Redressal Commission, Karnal.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including **Narinder Singh and others Versus State of Punjab and another**, 2014 (6) SCC 466; **B.S.Joshi and others vs State of Haryana and another** (2003) 4 Supreme Court Cases 675 followed by this Court in Full Bench case of **Kulwinder Singh and others Vs. State of Punjab and another**, 2007(3) RCR 1052 have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in **Gian Singh vs State of Punjab and another** (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be

exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court it is apparent that when the parties have entered into a compromise, in the nature of cases as prescribed then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

In the facts and circumstances, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.562 dated 29.09.2021 registered under Sections 406, 409, 417 and 420 IPC, at Police Station

Sector 32-33, Karnal alongwith subsequent proceedings arising therefrom are hereby quashed qua the petitioner, on the basis of compromise.

Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.”

8. In view of the aforesaid order passed by Coordinate Bench of this Court, continuation of the proceedings against the petitioners of this case, shall be sheer misuse of process of law. The claim of respondent-complainant has already been satisfied. The FIR in question qua co-accused Flipkart Internet Private Limited, has already been quashed.

10. Consequently, FIR No.0562 dated 29.09.2021 (Annexure P1) registered at Police Station Sector 32-33, Karnal, under Sections 406/409/417/420 IPC along with all the subsequent proceedings arising therefrom, are hereby quashed.

Disposed of.

(DEEPAK GUPTA)
JUDGE

30.10.2023
Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |