

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38694-2022

Date of decision : 22.08.2023

RASHPAL SINGH @ RACHHPAL SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : None for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

None for the complainant/respondent No.2.

PANKAJ JAIN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.83 dated 17.05.2016 registered for the offences punishable under Section 435 of IPC, Police Station Mukerian, District Hoshiarpur as well as for setting aside the judgment and order of sentence dated 29th of May, 2019 passed by SDJM, Mukeria, District Hoshiarpur on the basis of compromise.

2. On 02.03.2023, the following order was passed :-

“The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of F.I.R. No.83 dated 17.05.2016 under Sections 435 of IPC, registered at Police Station Mukerian, District Hoshiarpur and all other consequential proceedings arising therefrom, on the basis of compromise dated 22.07.2022 (Annexure P-3) arrived at between the parties.

Reply by way of affidavit dated 02.03.2023 of Mr. Kulwinder Singh, P.P.S., Deputy Superintendent of Police, Sub-Division Mukerian, District Hoshiarpur on behalf of the

respondent/State of Punjab is filed by the learned State counsel in Court today and the same is taken on record and copy thereof has been supplied to learned counsel for the petitioner.

Learned counsel for respondent No.2 has affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 14.03.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

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

Report be sent through District and Sessions Judge, before the next date of hearing. Adjourned to 22.05.2023. ”

3. Pursuant to the aforesaid order, report from SDJM, Mukerian dated 18.05.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- “(i) It is submitted that as per the statement of investigating Officer, only one accused i.e. accused/petitioner has faced trial in this case. He was convicted vide judgment dated 29.5.2019 passed by Ms. Rajwinder Kaur, PCS, the then Ld. Sub Divisional Judicial Magistrate, Mukerian and he has assailed the said judgment before the Ld. District and Sessions Judge, Hoshiarpur by way of appeal bearing CIS Regis. No.306 of 2019 which is pending for 30.5.2023 (Copy of case status enclosed).
- (ii) It is submitted that as per the statement of investigating officer, accused/petitioner has never been declared as proclaimed offender in this case.

- (iii) Since, complainant/respondent no. 2 has not come to the court, so, no report with regard to genuineness and validity or otherwise can be made by this Court. However, it has been informed by the accused/petitioner that complainant/respondent no. 2 has expired on 20.4.2023 and due to this reason he could not come this court to state about the genuineness and validity of compromise effect between the parties.”
4. The aforesaid report reveals that the parties failed to appear before the concerned Magistrate for recording of their statements w.r.t. compromise.
5. Counsels representing the petitioner as well as complainant/respondent No.2 have not come present today.
6. It seems that the compromise, if any, now stands fizzle out.
7. In view of above, the present petition is dismissed.

August 22, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No