

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

247

CRM-M-43305-2021
Date of Decision:03.07.2023

Dr. Paras SuriPetitioner
Vs.
State of Punjab & AnotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vivek Suri, Advocate
for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. Harvinder Singh Mann, Advocate
for respondent No.2.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.166 dated 21.06.2014 registered under Section 304-A of the IPC, 1860 registered at Police Station Derabassi, District SAS Nagar and all subsequent proceedings arising therefrom on the basis of compromise dated 02.07.2014 (Annexure P-2).

While issuing the notice of motion vide order dated 01.12.2021 following order was passed:-

“The learned counsel for the petitioner has submitted that the present FIR was lodged in the year 2014 and thereafter the challan has not been presented and the matter is still at the investigation stage and rather according to the information obtained by the learned counsel for the petitioner, a cancellation report was prepared by the police but the same has not been submitted before the competent Court. He submitted that it is a case where the allegation was with regard to the medical negligence on the part of the petitioner whereas

during investigation, it was found by the police that there was no medical negligence on the part of the petitioner and now the matter has also been amicably settled vide Annexure P-2 which is the compromise deed between the petitioner and respondent No.2. He has further submitted that so far as the judgment of a Division Bench of this Court in Baldev Singh Vs State of Punjab and another, 2016(3) Law Herald 2020 is concerned, the same will not be applicable in the present case in view of the fact that the aforesaid judgment pertained to motor accidents deaths whereas the present case pertains to the medical negligence. He submitted that in view of the judgment of the Hon'ble Supreme Court in Jacob Mathew Vs State of Punjab and another, 2005 AIR (SC) 3180 as well as Lalita Kumar Vs Government of U.P. and others, 2014 AIR (SC) 187, no preliminary enquiry was conducted before registration of the FIR as the case pertained to the medical negligence and on the face of it no offence was made out even in view of the investigation conducted by the police. He has further submitted that now the FIR is pending for more than 7 years and further prosecution of the petitioner would be detrimental to the interest of the petitioner and would amount to abuse of the process of law and, therefore, has prayed for the quashing of the FIR on the basis of compromise.

Notice of motion.

Mr. Arun Kaundal, Deputy Advocate General, Punjab accepts notice on behalf of respondent No.1 whereas Mr. H.S.Maan, Advocate accepts notice on behalf of respondent No.2 and prays for some time to file his power of attorney in the Registry of this Court.

Let the respondents file their respective replies on or before the next date of hearing with an advance copy to learned counsel for the petitioner and in the reply the State shall also state as to what is the status of the cancellation report, if any.

Adjourned to 10.2.2022."

Thereafter, vide order dated 09.02.2023 parties were directed to

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appear before Learned Illaqa/Duty Magistrate for getting their statements recorded regarding the compromise.

Pursuant to the aforesaid order, parties have appeared before Learned Sub-Divisional Judicial Magistrate and got their statements recorded. On the basis of the statements so recorded, Learned Magistrate has submitted report dated 19.04.2023 to the effect that the compromise has been effected between the parties voluntarily and without any coercion or undue influence.

Learned State counsel as well as learned counsel for respondent No.2 have not disputed the factum of compromise between the parties.

In view of the above, no useful purpose would be served to continue with the proceedings before the trial Court in the instant F.I.R.

Following the principles laid down by the Full Bench judgment of this Court in *Kulwinder Singh and others Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052* and approved by the Hon'ble Supreme Court in *Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*, this petition is allowed and F.I.R. No.166 dated 21.06.2014 registered under Section 304-A of the IPC, 1860 registered at Police Station Derabassi, District SAS Nagar and all subsequent proceedings arising therefrom on the basis of compromise dated 02.07.2014 (Annexure P-2), are quashed qua the petitioner.

July 03, 2023

Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No