

271

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

CRM-M-55183-2022(O&M)
Date of Decision: 27.03.2023

BALWINDER SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rhythem Bajaj, Advocate for
Mr. K.S. Brar, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab
for respondent No.1/State of Punjab.

Mr. Rajat Dogra, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

CRM-14153-2023

This is an application under Section 482 Cr.P.C for placing on record the copy of orders dated 12.11.2022 vide which the complaints filed under Section 138 of the Negotiable Instruments Act, 1881 filed against petitioner No.1 has been withdrawn on the basis of settlement as Annexure P-3 and for exemption for filing the certified/true typed copies of the same.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions.

CRM-M-55183-2022

This petition has been filed for quashing of FIR No.407 dated 25.12.2018, under Sections 420 and 120-B of Indian Penal Code registered

at Police Station Sahnewal, District Police Commissionerate, Ludhiana

(Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 10.11.2022 (Annexure P-2) arrived at between the parties.

Vide order dated 30.11.2022, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Judicial Magistrate First Class, Ludhiana has submitted its report, vide letter dated 17.01.2023 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Relevant extract of the said report is reproduced as under:-

“1. Number of persons arrayed as accused in FIR and those found involved during investigation?

A. It is respectfully submitted that as per main file and report of police under section 173 Cr.P.C., there are four accused namely Balwinder Singh Rajwant Singh, Tejinder Singh and Prempal Gandhi but challan was presented against three accused namely Rajwant Singh, Tejinder Singh and Prempal Gandhi. As per statement of IO, accused Balwinder Singh is absconding, therefore, challan qua this accused could not be presented and supplementary challan will be presented as and when, he will be arrested. It may however be mentioned here that said Balwinder Singh is the petitioner before Hon'ble High Court, he came present before this Court for recording the statement qua compromise as he is one of the parties to the compromise.

2. What is the status of the proceedings of the case/FIR?

A: In this regard, it is respectfully submitted that as per main file, the case is pending for consideration on charge.

3. Whether any accused is proclaimed offender?

A: In this regard, it is respectfully submitted that as per statement of

investigating officer and main file, NONE OF THE ACCUSED person is declared as proclaimed person in this FIR so far.

4. Whether the accused persons are involved in any other case or not?

A: As per the statement of ASI Bhupinder Kumar (Investigating Officer), no other criminal case is pending against any accused person.

5. Whether all the concerned have signed the compromise deed?

A: In this regard, it is respectfully submitted that as per ocular examination of all the parties to the present matter, the original compromise has been submitted before Hon'ble High Court and they stated to have signed the compromise deed voluntarily as detailed above. (Parties placed on record the photocopy of the compromise as Mark A)

6. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

A: In this regard, it is respectfully submitted that in view of the statement suffered by the parties and from their demeanor during preliminary questioning, the COMPROMISE BETWEEN THE PARTIES APPEARS TO BE GENUINE, VOLUNTARY, WITHOUT ANY THREAT OR COERCION AND OUT OF FREE WILL OF THE PARTIES.

7. A. How Many victims/complainants in the present FIR?

As per FIR and main file, ONLY SH. NARESH KUMAR JAIN IS THE COMPLAINANT/VICTIM PERSON in this case. It is further respectfully submitted that Sh. Naresh Kumar Jain appeared and suffered the statement in support of the compromise.”

A perusal of the said report would show that statements of all the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise was entered into voluntarily and without any pressure.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question.

Learned counsel for respondent No.2 has reiterated that the matter has been settled and the said compromise is in the interest of all the parties and would help in bringing out peace and amity between the parties.

I have heard the learned counsel for the parties and have perused the file.

In the light of the judgments rendered by the Hon'ble Apex Court in the cases of *Shakuntala Sawhney Vs. Kaushalya Sawhney, (1979) 3 SCR 639* and *Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543* and considering the entire facts, compromise, the statements of the parties recorded before the Judicial Magistrate First Class, Ludhiana and also the report dated 17.01.2023 submitted by Judicial Magistrate First Class, Ludhiana since the parties have arrived at a compromise by amicably settling their disputes and have decided to live in peace, no useful purpose will be served in allowing the criminal proceedings to continue.

Further, in the light of the above mentioned judicial precedents, when the parties have entered into a compromise, then continuation of the proceedings would be mere an abuse of process of the Court.

In order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, I am of the considered view that it would be in fitness of things to quash the proceedings on the basis of compromise and by quashing the FIR while accepting the prayer of the petitioners, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.407 dated 25.12.2018, under Sections 420 and 120-B of Indian Penal Code registered

at Police Station Sahnewal, District Police Commissionerate, Ludhiana (Annexure P-1) and all the consequent proceedings arising therefrom, are quashed qua the petitioners. However, the same would be subject to payment of costs of Rs.10,000/- each to be deposited by the petitioners with the **“Poor Patients' Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

Disposed of in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

27.03.2023

Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No