

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

CRM-M-1497-2023 (O&M)

Date of Decision: 22.02.2024

2024:PHHC: 025352

DEVAL RANA

. . . . PETITIONER

Vs.

STATE OF HARYANA AND ANOTHER

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Brijender Kaushik, Advocate,
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

None for respondent No.2.

DEEPAK GUPTA, J.

CRM-52526-2023

This is an application moved by the applicant/petitioner to place on record copy of the order dated 30.01.2023 as Annexure P3, whereby bail was granted to co-accused Jaswant Singh @ Jassi.

Notice of the application to the State.

Mr. Randhir Singh, Addl. AG, Haryana accepts notice and submits that he has no objection, if the prayer made in the application is allowed.

In view of the above, the application is allowed. Order dated 30.01.2023, being the judicial order, is taken on record as Annexure P3.

CRM-M-1497-2023

By way of this petition filed under Section 482 CrPC, petitioner prays for quashing of FIR No.288 dated 10.12.2022 (Annexure P1) under Section 420/406/506/120B and 379A IPC, registered at Police Station

Shahzadpur, District Ambala, on the basis of compromise dated 03.01.2023 (Annexure P2) with respondent No.2 and all the consequent proceedings arising therefrom.

2. Notice of motion was issued to the respondents.

3. Respondent No.2 - complainant appeared in person on 23.03.2023 stating that the two cheques given to him by the petitioner and co-accused had not been encashed. On the other hand, it was informed by counsel for the petitioner that complainant had made a statement before the trial Court that he had already received the entire amount. Adjournment was granted to place on record that statement.

4. On the adjourned dates, nobody put in appearance on behalf of respondent No.2-complainant. It is despite the fact that on direction of this Court, fresh notice to respondent No.2 was sent. He was duly served through his brother, but still nobody appeared for him.

5. Ld. counsel for the petitioner has placed on record copy of the order dated 30.01.2023 passed by Id. Additional Sessions Judge, Ambala in bail application bearing CNR No.HRAM01-000252-2023 pertaining to co-accused Jaswant Singh @ Jassi of this case, wherein the statement made by complainant- Sumer Chand Jain, has been duly reproduced. The said statement reads as under:

"Stated that in the present case, I have compromised the matter with Lalit Sharma, Gurpreet Singh and Jaswant Singh (petitioner), which is Ex. C1. As per compromise I have received ₹15,00,000/- from the petitioners. Quashing petition has already been filed before the Hon'ble High Court on the basis of compromise. I have no objection if bail is granted to the petitioner."

6. The above said statement made by the complainant-respondent No.2 would clearly reveal that he had effected the compromise with the

accused and had received an amount of ₹15 lakh. He had also disclosed that quashing petition had already been filed before this Court on the basis of compromise and so, he did not have the objection to grant bail to the co-accused.

7. Ld. counsel for the petitioner has also drawn attention towards the compromise deed dated 03.01.2023 (Annexure P2) effected between respondent No.2-Sumer Chand Jain and the three accused, who include petitioner Deval Rana, in which the complainant had acknowledged to have received the entire amount of ₹15 lakhs and that he will have no objection for getting the criminal case dismissed.

8. It has already been noticed that though respondent No.2-complainant appeared before this Court on one date of hearing stating that he had not received the entire amount, but later on he did not put in appearance before this Court despite sending intimation to him. Annexure P3 clearly indicates that respondent No.2-complainant has received the entire amount.

9. Learned counsel for the petitioner has referred to a decision of Hon'ble Supreme Court rendered in *Mohd. Shamim Vs. Smt. Nahid Begum, 2005 (1) RCR (Criminal) 697*, in which it had been held that in case compromise had been entered into between the parties and amount has been received by the complainant, the continuation of the proceedings will be nothing but misuse of process of law, even if the complainant later on backed out. In the cited authority, it was held as under: -

“14. This Court in Ruchi Agarwal vs. Amit Kumar Agrawal & Ors. 2004 (4) RCR (Criminal) 949 (SC); 2004 (8) Supreme 525, in almost a similar situation has quashed a criminal proceeding against the husband, stating:

"...Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

8. *In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. . ."*

15. *In view of the conduct of the First Respondent in entering into the aforementioned settlement, the continuance of the criminal proceeding pending against the Appellants, in our opinion, in this case also, would be an abuse of the process of the court. The Appellant No.1, however, would be entitled to withdraw the sum of Rs.50,000/- which has been deposited in the court. We, therefore, in exercise of our jurisdiction under Article 142 of the Constitution of India direct that the impugned judgment be set aside. The First Information Report lodged against the Appellants is quashed. The Appeal is allowed. However, this order should not be treated as a precedent."*

10. This Court in ***Ram Lal and others Vs. State of Haryana and another, 2008 (2) RCR (Criminal) 823***, has also held that when parties entered into compromise, but one of the parties backed out for no reasons, FIR deserved to be quashed despite backing out of the party. Similar view has been taken in ***Deepak Arora Vs. State of Haryana and another, 2015(7) RCR (Criminal) 649*** and ***Nishan Singh Vs. State of Punjab and another, 2018 (4) Law Herald 3393***.

11. In view of the aforesaid facts and circumstances and the legal position noticed above and also considering the fact that respondent No.2-complainant has not come forward to contest the petition or to refute the contention of the petitioner that he has already received the entire amount as

per compromise, it is held that continuation of the proceedings in the FIR in question shall be gross misuse of process of law.

12. Consequently, this petition is allowed. FIR No.288 dated 10.12.2022 (Annexure P1), under Section 420/406/506/120B and 379A IPC, registered at Police Station Shahzadpur, District Ambala, on the basis of compromise dated 03.01.2023 (Annexure P2) with respondent No.2, and all the consequent proceedings arising therefrom, are hereby quashed.

22.02.2024

Vivek

Whether speaking/reasoned?

Whether reportable?

(DEEPAK GUPTA)

JUDGE

Yes

No