

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203-2

CRM-M-5301-2021

Date of decision: 30.01.2024

Ramandeep Sharma and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Lupil Gupta, Advocate
for the petitioners.

Mr. Arun Luthra, DAG, Punjab.

Mr. Arun Gupta, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition is for quashing of FIR No.133 dated 11.09.2020 under Sections 420/465/471/120-B of the Indian Penal Code, 1860 registered at Police Station Dayalpura, District Bathinda and all consequential proceedings arising out of the same, on the basis of compromise dated 22.01.2021 (Annexure P-2) arrived at, between the parties.

2. As per report received from the Trial Court in compliance of order dated 24.03.2021 the petitioners have indeed compromised the matter with the complainant-respondent No.2, however, it has been categorically observed in its report by the Trial Court that no compromise has been effected as per the complainant with the third accused Gurpreet Singh @ Gopi.

3. On a pointed Court query to the learned counsel for the petitioners as to how the FIR in question could be partially quashed to

the exclusion of the third accused Gurpreet Singh @ Gopi with whom no compromise had been effected by the complainant, it was asserted by the learned counsel that it was within the complainant's discretion to decide with whom to compromise and furthermore, a party could not be pressurized into compromising any dispute with all the accused. When further questioned about whether the role of the petitioners was minor/trivial as compared to the role attributed to third accused i.e. Gurpreet Singh @ Gopi, learned counsel submitted that he had been implicated as one of the conspirators in the crime along with the present petitioners.

5. On the other hand, learned State counsel on instructions has informed the Court that admittedly the third accused Gurpreet Singh @ Gopi had not been named in the FIR in question nor any role attributed therein, however, subsequently during investigation, it came to light that he too was a conspirator and thus he was challaned only under Section 120-B of the IPC. It has been further informed by the learned State counsel that since the challan stands presented against all the three accused including the petitioners, the matter is now pending for framing of charges against them.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. A perusal of the FIR in question indeed reveals that the third accused Gurpreet Singh @ Gopi had neither been named in the FIR in question nor had any role been attributed much less by way of a whisper against him. It was only subsequently during investigation that

his role in the crime in question surfaced as a result of which he was also challaned along with the petitioners. In the circumstances, it is unequivocally indicative that the role of accused Gurpreet Singh @ Gopi is considerably less trivial and minor than the role which has been attributed to the petitioners herein. Notably, a perusal of the FIR in question reveals that all the accusations relating to enticing the complainant into parting with money along with subsequent bank deposits, point exclusively towards the petitioners.

8. Given the aforementioned circumstances, it would be nothing but a travesty of justice for the principal perpetrators of the crime to go scot-free on the basis of a compromise effected with the complainant, while the third accused i.e. Gurpreet Singh @ Gopi, implicated in the case in hand as a mere conspirator, undergoes the ordeal of a trial. It would be apposite to refer to the following observations made by this Court in ***CRM-M-7450-2022 titled as 'Yatin @ Mithu and another Vs. State of Haryana and another'*** decided on ***13.01.2023*** wherein the Court warned against situations where certain accused managed to compromise with the complainant through coercive or undue influence, leaving the other accused, who may lack such influence, to face trial:-

“This Court has no hesitation in observing that a danger indeed runs in quashing such FIRs including partial quashing on the basis of a compromise where all the accused have been attributed identical roles, and some of the accused have been able to enter into a compromise with the complainant by either pressurizing him or exercising undue influence or coercion. It cannot be over emphasized that there could be cases where the accused/offenders holding influential positions or being in a sound financial position would go scot free, and on the

other hand, an accused, who may not be able to influence the complainant or induce him to effect a compromise would be left to face trial.

Another scenario could be and which has been coming to the notice of this Court is that an accused, who has been attributed the main role in the crime in question, has compromised the matter with the complainant, whereas the other accused named in the FIR and in some cases not even named but nominated pursuant to a disclosure statement and still further, attributed only minor role(s) in the crime in question had been left to face trial on account of no compromise effected between him/them and the complainant. Without doubt, this would run contrary to securing the ends of justice and the spirit of compromise, and thereby rendering the social and legal purpose behind Section 482 Cr.PC nugatory.

Hon'ble Supreme Court in certain exceptional cases has partially quashed the FIR and other criminal proceedings with respect to some of the accused on the basis of a compromise effected between them and the complainant, to the exclusion of the other accused with whom no compromise was effected. However, it was done in the peculiar facts and circumstances of those cases and no general rule to that effect was laid down by the Hon'ble Supreme Court while doing so. There can also be no general principle that partial quashing of FIR or other criminal proceedings is not permitted at all. Each criminal case has its own distinct facts and it is only after considering all the relevant facts and circumstances that an appropriate decision can be arrived at as to whether or not the FIR and consequential criminal proceedings should be quashed partially. Every law derives its legitimacy from justice, and justice should be the end product. The power under Section 482 Cr.PC has to be exercised with circumspection and restraint, ever mindful of the social impact of such exercise of power.”

9. In the facts and circumstances as enumerated hereinabove, this Court is not inclined to quash the FIR in question on the basis of compromise arrived at between the complainant and the petitioners, to the exclusion of the third accused Gurpreet Singh @ Gopi. Accordingly, the instant petition is hereby dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

30.01.2024 (MANJARI NEHRU KAUL)
Vinay JUDGE

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