

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41376-2019 (O&M)

Decided on 10.07.2024

Mohinder Singh

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Raghav Soni, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Mr. SK Bawa, Advocate for respondent No.2

Sandeep Moudgil, J.

(1). This is a petition under Section 482 CrPC filed by the petitioner seeking to quash the cross case registered vide DDR No.30(A) dated 28.05.2012 in case FIR No.54 dated 28.05.2012 under Sections 323/452/379/148/149 IPC, registered at Police Station Nurpur Bedi (Annexure P1) along with subsequent proceedings arising thereof.

(2). Learned counsel for the petitioner submits that the instant FIR was got registered by the niece of the petitioner and thereafter the cross-case vide the subject DDR No.30 dated 28.05.2012 was got registered by Respondent No.2. It is then urged that a compromise dated 29.09.2015 was entered into between the parties which specifically mentions that the petitioner, who was summoned vide impugned order, has also been included in the compromise, on the basis of which the FIR in question was quashed by a Coordinate Bench of this Court vide order dated 26.04.2016 passed in CRM-M-35881-2015 and CRM-M-35892-2015 (Annexure P5).

(3). Learned counsel then argued that since the FIR itself has been quashed, the order dated 05.06.2015 (Annexure P3) summoning the petitioner; order dated 10.05.2018 (Annexure P7) dismissing the application for discharge of the petitioner; the order dated 10.05.2018 (Annexure P8); and the order dated 09.07.2019 (Annexure P10) dismissing the revision petition amounts to abuse of process of law and harassment. Reliance has been placed on **Ruchi Agarwal vs. Amit Kumar Agarwal & Ors. (2005) 3 SCC 299**; and **Mohd. Shamim vs. Smt. Nahid Begum, (2005) 3 SCC 302**.

(4). Reply on behalf of respondents No.2&3 has been filed wherein it has been contended that the present petition involves disputed question of facts which cannot be adjudicated in these proceedings. It is also averred that the present petition is not maintainable as the same does not fall under the category in which from a bare perusal of the FIR, no cognizable offence is found to be committed.

(5). Learned counsel for the respondents No.2&3 contended that after having entered into compromise, the petitioner started threatening them and therefore, they did not go ahead with the compromise with the petitioner and as such they made a statement before the trial court in this regard. He further stated that no compromise has been effected with the petitioner and he is taking undue advantage because his name has figured in the compromise though he has not signed the same.

(6). Heard learned counsel for the parties.

(7). A perusal of the array of parties of the mutual compromise dated 29.09.2015 (Annexure P4) would show that the name of the petitioner-Mohinder Singh son of Hans Raj is at Sr.No.6 of the 1st party whereas the name

of respondents No.2&3 figure at Sr.No.1 & 4, respectively of the 2nd party. It also mentions that the compromise relates to FIR No.54 dated 28.05.2012 at the instance of Mandeep Kaur as well as the cross-case lodged at the instance of Manjeet Kaur. The relevant terms and conditions which formed the basis of the mutual compromise is relevant to be reproduced herein and the same reads as under:-

“...That now in respect of above mentioned case, both the parties, with the intervention of respectables and relatives and keeping in view the future, entered into the compromise. Both the parties intended to withdraw the case/cross case and both the parties will file petition to quash the FIR before Hon'ble Punjab and Haryana High Court, Chandigarh and both the parties will be bound to record their statements and after quashing of the FIR, as per this compromise, will not file any case regarding damages against each other in near future and will not take any action and after acquittal in the said FIR, they will not have any objection. It is further clarified that out of 2nd party, one Mahinder Singh son of Hans Raj who was put in column no. 2 in the challan, now has been summoned by the court of Id. SDJM, Anandpur Sahib, is also included in the compromise.

That it also agreed between the parties that the cases which are pending before the Civil Court, the present compromise will not effect on that and the decision given by the courts will be accepted by the parties. The parties whosoever, filed the civil suit is out of the ambit of this compromise.

That this compromise has been entered into by the parties with their consent without any pressure or greed etc.

That the parties will be bound with the conditions of the compromise, as the parties entered into and signed the compromise in presence of witnesses after reading, hearing and after admitting the contents as correct. Therefore, this compromise is executed in presence of witnesses so as to keep evidence of it.”

(emphasis applied)

(8). It is crystal clear that the mutual compromise has been entered into between the parties which, for all intents and purposes except for the conditions provided therein, would include the petitioner as the ‘necessary party’ with whom the compromise stood effected on 29.09.2015. Since the array of parties mentions the petitioner’s name, whether or not, he is signatory to the said compromise would not be of any significance for the reason that the compromise itself specifically mentions that *one Mahinder Singh son of Hans Raj who was put in column no. 2 in the challan, now has been summoned by the court of Id. SDJM, Anandpur Sahib, is also included in the compromise.*

(9). That being so, it does not lie in the mouth of the respondents No.2&3 to resile from the terms and conditions of the compromise which was arrived at mutually without any pressure or coercion from either side. It only suggests that respondents No.2&3 cantankerously led or pursued the litigation post-compromise just with an intention to harass and humiliate the petitioner which, undoubtedly amounts to hoodwinking the process of the law and thus cannot be allowed under the nose of this Court.

(10). Accordingly, this petition is allowed and the cross case registered vide DDR No.30(A) dated 28.05.2012 in case FIR No.54 dated 28.05.2012 under Sections 323/452/379/148/149 IPC, registered at Police Station Nurpur Bedi (Annexure P1) including the order dated 05.06.2015 (Annexure P3); order dated 10.05.2018 (Annexure P7); order dated 10.05.2018 (Annexure P8); and order dated 09.07.2019 (Annexure P10) are hereby set aside *qua* the petitioner.

10.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No