

(2016) 01 P&H CK 0429

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-12131 of 2013 (O & M)

Vijay Kumar Verma

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Constitution of India, 1950 — Article 142

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 406, Section 420, Section 427, Section 506

Citation : (2016) 1 LawHerald 257

Hon'ble Judges : Jaspal Singh, J.

Bench : Single Bench

Advocate : Sham Lal Bhalla, Advocate, for the Appellant; Arjinder Singh Sidhu, Assistant Advocate General, for the Respondent

Final Decision : Allowed

Judgement

Jaspal Singh, J.—1. By virtue of this petition under Section 482 Cr.P.C., petitioner has sought quashing of FIR No. 15 dated February 6, 2008, under Sections 406, 420, 427, 506 IPC, registered at Police Station, Sarabha Nagar, Ludhiana (Annexure P-1) and all consequential proceedings emanating therefrom.

2. The undisputed facts are that FIR, referred to above, was registered against the petitioner and after completion of investigation, challan was presented in the court of learned jurisdictional Magistrate, Ludhiana. The petitioner was chargesheeted to face trial under Sections 420, 506 IPC vide order dated August 21, 2009. The said order was challenged before learned Sessions Judge, Ludhiana, by way of revision petition. During the pendency of revision petition, complainant - respondent No. 2 entered into a compromise which was reduced into writing on September 25, 2009 and at that time, complainant - respondent No. 2 received a demand draft worth Rs. 2.5 lac (Annexure P-4) towards full and final settlement from the petitioner. In pursuance of the aforesaid compromise, the petitioner withdrew the revision petition vide order dated September 25,

2009 (Annexure P-5). Subsequently, complainant - respondent No. 2 resiled from the terms & conditions of the agreement and did not make the statement for quashing of FIR in question.

3. During the course of arguments, the contention raised on behalf of complainant - respondent No. 2 is that quashing of FIR was not subject matter of the compromise and the withdrawal of revision petition through order dated September 25, 2009 was the unilateral act of petitioner. Complainant - respondent No. 2 has nothing to do with the same. It was also urged by respondent No. 2 that there were as many as three civil suits for recovery of different amounts against the petitioner and out of them, one suit has already been decreed for an amount of Rs. 1.55 lac on October 8, 2008 whereas in other two suits, the amount claimed was Rs. 2.5 lac and Rs. 1.70 lac, respectively. Those suits were dismissed in default subsequent to September 25, 2009. The amount of civil suits was more than Rs. 5 lac and it was not possible to have settled the matter only on receipt of Rs. 2.5 lac, that too, including the state case registered against the petitioner.

4. This Court has given an anxious thought to the aforesaid submissions but find the same to be without any force. Rather, this Court is of the considered view that backing out or resiling from the terms & conditions of the agreement by complainant - respondent No. 2 for the reason close to his chest is depreciable one.

5. Before proceeding further to decide the matter in controversy on merits, it would be desirable to reproduce the compromise deed which reads as under:--

"COMPROMISE DEED

This deed of compromise is executed on this 25th day of September, 2009 between Smt. Darshna Rani W/o Baldev Krishan and Baldev Krishan S/o Ghaniya Lal Both R/o House No. 105, Kartar Nagar, Model Town, Ludhiana (HEREIN AFTER CALLED THE PARTY OF THE FIRST PART)

AND

Sh. Vijay Kumar Verma s/o Sh. Kedar Nath Verma R/o Megha Resorts, Ferozepur Road, Ludhiana (HEREIN AFTER CALLED THE PARTY OF SECOND PART) to the following facts:--

Whereas, the party of Ist Part has lodged FIR No. 6.2.2008 U/s 406, 420, 427, 506 IPC etc. at P.S. Sarabha Nagar, Ludhiana against the party of IInd Part and the said case is pending in the court of CJM, Ludhiana.

Whereas the party of 1st part has also filed civil suit/suits for recovery against party of 2nd part in the name of different forms i.e. Travel Star Hotel India Pvt. Ltd., Vijay Kiran Hotel Pvt. Ltd. City Walk etc. which are pending in various courts.

That all these matters have been resolved with the intervention of the respectables and common friends as parties have been closed related in past and

were good friends and the matter has been settled for an amount of Rs. 2,50,000/- in all vide draft No. 011501 drawn on Hongkong and Shinghai Banking Corp. Ltd. The party of part has been agreed to withdraw all cases/suits pending in various courts at stated above.

1. That the party of 2nd part has agreed to make the payment vide draft or banker cheque in lieu of the all the claim against the party of first part.

2. That both the parties have agreed to live like good friends as they have in the past and now there is no grudge against any body and if any complaint/suit/case is filed by any body against other shall be withdrawn or the statement to process the same shall be made by them wherever it is required in the courts or in any other authority.

3. That the case titled as Darshana Rani v. City Walk pending in the court of Shri Jagdeep Sood, Civil Judge (Junior Division) Ludhiana for 14.01.2010 and case Darshana Rani v. Travel Star Hotel India Ltd., pending for 3.10.2009 in the court of Mrs. Ludhwinder Kaur, Addl. Civil Judge (Senior Division) stand compromised as withdrawn.

In witness whereof both the parties have signed the compromise deed without any undue pressure with their free will and consent after admitting the contents of the same to be true and correct."

6. A glance at the compromise deed transpires that all the matters pending between the parties have been resolved with the intervention of respectable and common friends. The parties have been closely related in the past and were good friends. There is a specific reference in respect of the FIR. Even otherwise, it is evident from the contents of compromise that parties have agreed that complaint/suit/case filed by the parties against each other shall be withdrawn or the statement to process the same shall be made where-ever it is required in the court(s) or in any other authority. It also specifically finds mention that the second party i.e. complainant - respondent has agreed to the payment by draft or banker cheque in lieu of the claims against the first party. Thus, it is clear that all the matters were resolved and complainant - respondent No. 2 has backed out intentionally for some ulterior motive.

7. In similar situation, the Hon"ble Apex Court in case Mohd. Shamin v. Smt. Nahid Begum, , 2005(1) RCR (Criminal) 697, has observed that in view of the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon"ble Apex Court has been pleased to observe as under:--

"14. This Court in Ruchi Agarwal v. Amit Kumar Agrawal & Ors. , 2004 (4) RCR (Crl.) 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."

8. Adverting to the facts of the present case, since the parties have resolved all the matters and acting on the terms & conditions set out in the compromise which admittedly bears the signatures of complainant - respondent No. 2, this Court is of the considered view that a case is made out for quashing the FIR as well as subsequent proceedings emanating therefrom.

9. In the light of what has been discussed above, the instant petition is allowed. FIR No. 15 dated February 6, 2008, under Sections 406, 420, 427, 506 IPC, registered at Police Station, Sarabha Nagar, Ludhiana (Annexure P-1) and all consequential proceedings emanating therefrom are quashed.