

“with Due Respect It Is Submitted That I Have Received Vs. State of Punjab and Another

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Court : Punjab and Haryana

Decided On : Jan-27-2014

Appellant : “with Due Respect It Is Submitted That I Have Received

Respondent : State of Punjab and Another

Judgement :

CRM-M No.33049 of 2013 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CRM-M No.33049 of 2013.

Date of Decision : 27.01.2014.

Bara Singh ...Petitioner Versus Union Territory, Chandigarh and another ...Respondents CORAM : HON'BLE Mr.JUSTICE NARESH KUMAR SANGHI Present: Mr.Arun Kumar Batra, Advocate for the petitioner.

Ms.Ashima Mor, Advocate for U.T., Chandigarh.

*** Naresh Kumar Sanghi, J.

Prayer in this petition is for quashing of FIR No.462 dated 12.08.2013, under Sections 279 and 337 IPC, registered at Police Station, Sector-34, Chandigarh, and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).Vide order dated 01.10.2013, the affected parties

were directed to appear before the learned Court below to get their respective statements recorded with regard to the compromise.

The said Court was also directed to send a detailed report with regard to the validity or otherwise of the compromise, after recording the statements of the parties.

In compliance of the above, the only injured, namely, Mohammad Sahmad and the petitioner-accused, namely, Bara Singh, did appear before the learned court below and got Kanchan 2014.01.30 10:27 I attest to the accuracy and integrity of this document chandigarh CRM-M No.33049 of 2013 2 recorded their respective statements with regard to the compromise.

Mohammad Sahmad stated as under :- The matter has been compromised with the accused- Bara Singh S/o Sh.

Gurdial Singh R/o H.

No.3613-A, Sector- 31, Chandigarh and as per the directions of Hon'ble High Court, today I am appearing for recording of my statement to this effect that the matter has been compromised with the accused without any force, coercion and threat and I have no objection if the said FIR is quashed.

The Compromise Deed dated 18.09.2013 is Ex.A and affidavit is Ex.B.

The report received from learned Judicial Magistrate 1st Class, Chandigarh reads as under :- With due respect, it is submitted that I have received the order dated 01.10.2013 passed in CrI.

Misc.

No.M- 33049 of 2013 by the Hon'ble High Court of Punjab and Haryana in which the direction has been given to the Ilaqua Magistrate to get the statement of both the parties recorded and to report regarding the validity or otherwise of the compromise after recording the statements of all the concerned parties before the

next date of hearing i.e.27.01.2014.

In compliance with the order dated 01.10.2013 passed by the Hon'ble High Court of Punjab and Haryana I have recorded the statement of complainant-Sh.

Sahmad and accused-Bara Singh.

In his statement the complainant has mentioned that he has compromised the matter with the accused and he also stated that the statement was made without any force, coercion and threat and he has no objection if any FIR is quashed.

The Compromise Deed Ex.A dated 18.09.2013 was also brought on record.

Apart from this statement I have also personally asked the complainant regarding the said compromise and he has stated that he is not making this statement under any pressure and has voluntarily compromised the matter.

I am satisfied with the Kanchan voluntariness and validity of the said compromise.

2014.01.30 10:27 I attest to the accuracy and integrity of this document chandigarh CRM-M No.33049 of 2013 3 Therefore, this report is submitted before your goodself.

Learned counsel for the petitioner submits that on account of error in judgment, the accident had taken place, in which, respondent No.2-complainant had sustained simple injuries.

Due to intervention of the respectable and elder people of the society, the petitioner and respondent No.2 have sorted out their disputes and effected the compromise.

He further submits that the petitioner as well as respondent No.2 did appear before the court below and got recorded their statements with regard to the compromise.

He further submits that in view of the fact that both the private respondents and the petitioner have sorted out their disputes, therefore, pendency of the FIR and the consequential proceedings arising therefrom would be a sheer abuse of the process of law since chances of the conviction and sentence of the petitioner are bleak.

In support of his contention, he has placed reliance on the judgment of Hon'ble the Supreme Court in the case of Gian Singh versus State of Punjab & another, 2012(4) RCR(Criminal) 543.

Learned counsel for the State, on instructions from ASI Avtar Singh of Police Station, Sector-34, Chandigarh, also admits that the only injured Mohammad Sahmad has sorted out his dispute and effected compromise with the petitioner.

She has also gone through the copy of the statement and the report received from the learned Judicial Magistrate 1st Class, Chandigarh, and states that she has no objection if the impugned FIR and all the consequential proceedings arising therefrom, are quashed, on the basis of compromise.

Kanchan 2014.01.30 10:27 I attest to the accuracy and integrity of this document chandigarh CRM-M No.33049 of 2013 4 Respondent No.2-complainant, Mohammad Sahmad, is present in Court and has been identified by ASI Avtar Singh.

He states at bar that he has no objection, if the present petition is accepted and the petitioner is acquitted of the charge levelled against him.

I have heard the learned counsel for the parties and with their able assistant gone through the material available on record.

The present occurrence is alleged to have taken place on account of error of judgment in which, respondent No.2- complainant had sustained the simple injuries.

Due to the intervention of the respectable and elder people of the society, the matter has been compromised.

The statements of the affected parties have already been recorded by learned Judicial Magistrate Ist Class, Chandigarh.

The report from the said court has also been received.

The operative part of the statements of the parties and the report received from the learned Judicial Magistrate Ist Class, Chandigarh, have been reproduced above.

Learned counsel for the parties are also ad-idem that both the factions have sorted out their disputes and effected a compromise.

In view of the totality of the facts and circumstances of the case, the pendency of the FIR and the consequential proceedings arising therefrom would be a sheer abuse of the process of law, since chances of ultimate conviction of the petitioner are bleak.

As a sequel to the above discussion and taking into consideration the ratio of the judgment delivered by Hon'ble Kanchan 2014.01.30 10:27 I attest to the accuracy and integrity of this document chandigarh CRM-M No.33049 of 2013 5 Supreme Court in the matter of Gian Singh (supra).the present petition is allowed.

Resultantly, FIR No.462 dated 12.08.2013, under Sections 279 and 337, IPC, registered at Police Station, Sector-34, Chandigarh, and the consequential proceedings arising therefrom are hereby quashed.

January 27, 2014.

(NARESH KUMAR SANGHI) kanchan JUDGE Kanchan 2014.01.30 10:27 I attest to the accuracy and integrity of this document chandigarh

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