

Sohrab Hussain vs State Nct Of Delhi & Anr on 25 May, 2022

\$~10

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 341/2022

SOHRAB HUSSAIN

..... Petitioner

Through: Mr. Ankit Rai, Adv.

versus

STATE NCT OF DELHI & ANR.

..... Respondent

Through: Mr G. M. Farooqui, Addl. PP for

State

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

ORDER

% 25.05.2022 1.0 Learned counsel for the petitioner submits that subsequent to the compromise dated 24.01.2020, the petitioner was granted anticipatory bail by this court vide order dated 20.02.2020 in Bail Appl. No.381/2020. 1.1 Ld counsel further submits that the accused/petitioner was earlier declared Proclaimed Offender vide order dated 17.02.2017 of Ld. Magistrate, on which FIR under Section 174A IPC came to be registered. Same is not disputed by the IO present in court.

2.0 Learned counsel for the petitioner has placed on record, the judgement of co-ordinate Bench of Punjab and Haryana High Court dated 01.08.2018 in Vikas Gupta v. State of Haryana and Ors., in support of his plea, that if the main offence is compounded, the court can take lenient view to quash the FIR even under Section 174A IPC.

3.0 Learned counsel for the petitioner also submits that the petitioner/accused was even admitted to anticipatory bail vide order dated 20.02.2020.

CRL.M.C. 341/2022 page 1 of 4 4.0 Mr G.M. Farooqui, Ld. Prosecutor submits that he is not challenging the proposition of law as laid down in the above judgement. However, it may send a wrong signal to the accused persons to evade the process of law and not face the consequences.

5.0 In fact that the petitioner and the respondent no.2 have already arrived at a settlement and the respondent no.2 has already received the full and final settlement amount of Rs.2,25,000/- finds recorded in order of this court dated 08.04.2022, which is reproduced hereunder:

"1. The present petition under Section 482 of the Code of Criminal Procedure, 1973, has been filed for quashing of FIR No. 1349/2015, dated 20.10.2015, registered at Police Station-Narela, under Sections 420/174A of the Indian Penal Code, 1860 ["IPC].

2. The allegations in the FIR are that the petitioner approached the complainant [the respondent No.2 herein] on 02.03.2015 with an offer to sell him a plot of land. The parties agreed to conclude the transaction for a sum of Rs.7,75,000/-, and an

agreement dated 10.03.2015 was entered into between them. The complainant contends that he gave a sum of Rs.2,25,000/- to the petitioner as advance, but the petitioner did not conclude the transaction.

3. During the pendency of the proceedings, the parties have entered into a compromise deed dated 24.01.2020 in which it is recorded that the petitioner shall pay a sum of Rs.2,25,000/- to the complainant towards the full and final settlement of the disputes arising out of the said agreement.

4. The petitioner and the complainant are both present in Court, and are duly identified by the Investigating Officer. The complainant confirms that he has entered into settlement without any pressure or coercion from any one, and that he has received the settlement amount of CRL.M.C. 341/2022 page 2 of 4 Rs.2,25,000/- in full. He also states that has no objection to the quashing of the FIR. The petitioner also confirms that he has made the payment of the aforesaid amount voluntarily.

5. In these circumstances, the principal offence under Section 420 of the IPG being compoundable, the only question required to be considered is whether the alleged offence under Section 174A of the IPG ought to be quashed upon the settlement having been entered into between the accused and the complainant. Learned counsel for the parties seek some time to address this issue. They are at liberty to place on record copies of the Trial Court Record and any orders/judgments upon which they wish to rely in this regard within one week.

6. List on 29.04.2022."

6.0 It is noted that the co-ordinate Bench of this court in judgement dated 22.01.2016 titled as Noor Salim Rana & Ors. v. State (govt of NCT of Delhi) & Anr. observed that pursuing of prosecution even after compromise between the parties would be contrary to securing the ends of justice; and exercised its power under Section 482 CrPC in FIR no.70/2009 under Sections 365/364A/328/344/120B/174A/34 IPC PS Nabi Karim and quashed the FIR and the proceedings emanating therefrom. The relevant portion of the said judgement reads as follows:

"It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in CRL.M.C. 341/2022 page 3 of 4 entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C.

The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing."

7.0 In view of the above, considering the fact that disputes between the parties have already been settled and the respondent no.2 has already received an amount of Rs.2,25,000/-, in full and final, pursuant to settlement, I am of the considered opinion that bringing these proceedings to an end would only further the ends of justice.

8.0 In view of the above, the present FIR bearing no.1349/2015 dated 20.10.2015 under Section 420IPC/174A IPC PS Narela and all the consequential proceedings, are hereby quashed.

9.0 Present petition is disposed of accordingly.

MAY 25, 2022/p

POONAM A.

[Click here to check corrigendum](#)

CRL.M.C. 341/2022