

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-556-2020

Decided on : 11.11.2021

Vivek Kumar

. . . Petitioner

Versus

State of Punjab and another

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Puneet Sharma, Advocate
for the petitioner.

Mr. A. K. Kaundal, DAG, Punjab.

Mr. Shovender Pal Singh, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 119 dated 23.08.2019 registered under Section 420 of the Indian Penal Code, 1860 and 12(1) (b) of Passports Act, 1967 registered at Police Station Navi Baradari, District Police Commissionerate Jalandhar (Annexure P-12) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 19.08.2021, the following order was passed:-

“CRM-22589-2021

This is an application for placing on record judgment and decree dated 31.05.2021 as Annexure P-17/A as there are already 17 Annexures along with the petition.

For the reasons stated in the application, the same is allowed and Annexure P-17/A is taken on record.

CRM-22591-2021

This is an application moved by respondent No.2-wife for preponing the date of hearing in the main case, which is stated to be fixed for 30.09.2021 on the ground that the matter has been compromised.

Learned State counsel as well as learned counsel for the non-applicant/petitioner have no objection if this application is allowed.

Accordingly, the application is allowed and the main case is taken up on Board for hearing today itself.

CRM-M-556-2020

Learned counsel appearing for the complainant-wife has submitted that the present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.119 dated 23.08.2019 (Annexure P-12) under Sections 420 IPC and Section 12 (1) (b) of Passports Act, 1967 at Police Station Navi Baradari, District Police Commissionerate, Jalandhar. In the said case, the proceedings have been stayed and during the pendency of the said proceedings, a detailed compromise has been effected between respondent No.2 and the petitioner and his family members. As per the said compromise, the parties have decided to finish the entire criminal litigation against each other. Counsel for respondent No.2 has further stated that respondent No.2 has been paid the entire amount of Rs.15,00,000/-, which she was entitled to, as per the compromise. It is further stated that even the divorce petition has been allowed under Section 13-B of the Hindu Marriage Act. It has been stated that even in the FIR under Section 498-A IPC, compromise has been effected and the parties have made their statements before the learned Trial Court. In the present case, the petitioner is residing abroad but respondent No.2 would have no objection in case the statement before the learned Trial Court would be given by the father-in-law, namely, Raj Kumar on behalf of the petitioner, who is stated to have a special power of attorney in

his favour.

In view of the above said facts and also the fact that the present case is an offspring of the matrimonial dispute between the petitioner and respondent No.2, this Court deems it appropriate to permit the petitioner to record his statement through his special power of attorney, Raj Kumar, who is the father of the petitioner and the complainant-respondent No.2 has no objection to the same.

Adjourned to 11.11.2021.

The parties are directed to appear before the Illaqa Magistrate/trial Court concerned for recording their statements qua compromise within a period of two weeks. The Illaqa Magistrate/trial Court concerned is directed to submit a report on or before the next date of hearing containing the following information:-

- 6. Number of persons arrayed as accused.*
- 7. Whether any accused is proclaimed offender?*
- 8. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 9. Whether the accused persons are involved in any other FIR or not?*
- 10. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”*

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Jalandhar to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“4. The undersigned is sending the report as directed by the Hon'ble Punjab & Haryana High Court, Chandigarh as follows:-

1. *As per the statement of IO Hardev Singh, PS Navi Baradari Jalandhar, no accused were found absconded or declared proclaimed offender in the FIR in question. It is further stated that there is only one accused Vivek Kumar and one complainant Komal in the present FIR. As per record, the accused Vivek Kumar is not involved in any other FIR.*
2. *I have gone through the statements given by the parties and the perusal of the same reveals that the compromise effected between the parties is bone fide and does not seem to be a result of any pressure or coercion etc. and the same is genuine and without any coercion and undue influence.*
3. *The original statements of parties recorded in the Court in this case are sent herewith for kind perusal of the Hon'ble Punjab & Haryana High Court, Chandigarh.*

Report submitted.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case.

Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondent No. 2-complainant has submitted that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

As per the Full Bench judgment of this Court in “***Kulwinder Singh and others Vs State of Punjab***”, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feels that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “***Gian Singh Vs. State of Punjab and another***”, 2012 (4) RCR (Criminal) 543, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 119 dated 23.08.2019 registered under Section 420 of the Indian Penal Code, 1860 and 12(1) (b) of Passports Act, 1967 at P.S. Navi Baradari, registered at Police Station Navi Baradari, District Police Commissionerate Jalandhar (Annexure P-12) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

11th November, 2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No