116

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-27966-2021 in/and
CRM-M-763-2019 (O&M)
Date of decision : 10.09.2021

Sanjeev Kumar @ Sanju

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Diwan S. Adlakha, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Mandhir Singh, Advocate for respondent No.2.

(Through Video Conferencing)

****

VIKAS BAHL, J. (ORAL)

CRM-27966-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 17.01.2022 to some early date.

Learned counsel for the applicant-petitioner prays that the present application may kindly be allowed and the main case be taken up today for final disposal.

Notice in the application.

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears on behalf of the State-respondent No.1 and Mr. Mandhir Singh, Advocate appears on behalf of respondent No.2 and state that they have no objection in case the date of hearing in the main case is preponed from 17.01.2022 to today and the same is taken up today itself for final disposal.

In view of the above, the present application is allowed.

Main case is taken on board today itself for final disposal.

Main case

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.440 dated 13.11.2018 registered under Sections 323, 427 and 506 of the Indian Penal Code, 1860 (Section 325 of IPC has been added later on) at Police Station Farakpur, District Yamuna Nagar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise arrived at between the parties, vide affidavit dated 19.11.2018 (Annexure P-2) executed by respondent No.2/complainant.

When the matter came up before a Co-ordinate Bench of this Court on 19.08.2019, the following order was passed:-

> *"Learned State counsel submits that the petitioner has already joined the investigation.*
>
> *Learned counsel for the petitioner as well as respondent No.2 agreed the factum of compromise entered into between them.*
>
> *In view of the above, petitioner will file his respective affidavit that there is no other criminal case*

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

pending against him and also give the details of any other FIR(s), which have already been quashed on the basis of compromise.

Let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 16.09.2019 to record their statements with reference to the compromise, if any, entered into between them.

Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof.

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender.

(vi). whether any of the petitioner(s) is/are previous convict or not?.

List before this Court on 30.10.2019 for further consideration.

Meanwhile, learned State Counsel shall also get the

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance."

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class, Yamuna Nagar. The relevant portion of the said report is reproduced hereinbelow:-

"Sir,

It is most humbly submitted that vide order dated 19.08.2019 passed by the Hon'ble High Court of Punjab and Haryana in CRM-M-763-2019 (O&M), the undersigned was directed to record the statement of parties regarding compromise/settlement and to submit the report regarding genuineness of compromise. In this regard, I have the honour to submit that both parties i.e. complainant, namely, Nishant Sharma and the accused, namely, Sanjeev @ Sanju appeared before the Court together on 16.09.2019 and got their separate statements regarding compromise recorded, wherein they stated that they have compromised the matter voluntarily and without any pressure. (Original copies of the statements are enclosed herewith for your honour's kind perusal). In my view the compromise is genuine, without any pressure or undue influence. Both the parties have been identified by their respective counsels. Further, as per statement of I.O., HC Munish Kumar, it is submitted that only one accused is facing trial in this case and he has never been declared as Proclaimed Offender. No other case is registered against the accused or the complainant at P.S. Farakpur and the accused has never been convicted in any case pertaining

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

to P.S. Farakpur.

Report is submitted for your honour's kind perusal and necessary action, please.

Thanking you."

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. 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 has again reiterated 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 feel that the same was required to

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

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 learned 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

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh

be quashed.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.440 dated 13.11.2018 registered under Sections 323, 427 and 506 of the Indian Penal Code, 1860 (Section 325 of IPC has been added later on) at Police Station Farakpur, District Yamuna Nagar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise arrived at between the parties, vide affidavit dated 19.11.2018 (Annexure P-2) executed by respondent No.2/complainant, are ordered to be quashed, qua the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case.

10.09.2021 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**

PAWAN KUMAR
2021.09.11 19:48
I attest to the accuracy and
authenticity of this document
Chandigarh