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

CRM-41102-2021 in/and
CRM-M-3054-2021 (O&M)
Date of decision : 02.12.2021

Maninder Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Prateek Pandit, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Nitin Rampal, Advocate for respondent Nos.2 to 4.

VIKAS BAHL, J. (ORAL)

CRM-41102-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 19.05.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab,

appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Nitin Rampal, Advocate appears on behalf of non-applicant/respondent Nos.2 to 4 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 19.05.2022 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 19.05.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.172 dated 15.07.2020 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Tanda, District Hoshiarpur and all the subsequent proceedings arising therefrom on the basis of compromise.

On 22.01.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

The petitioners have filed the present petition for quashing of FIR No.172 dated 15.07.2020 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Tanda, District Hoshiarpur and all subsequent proceedings arising therefrom in view of compromise.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. A.G., Punjab has appeared and accepted notice on

behalf of respondent No.1-State.

At this stage, Mr. Nitin Rampal, Advocate has appeared on behalf of respondents No.2 to 4 and he undertakes to file his power of attorney in the Registry.

Learned Counsel for respondents No.2 to 4 has admitted the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 29.01.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. The trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing- 02.03.2021 containing the following information:-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. Current stage of the case.*

The trial Court is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State, if any, be also filed in the Registry before the date fixed.”

Thereafter, the parties had moved an application, since they could not appear before the trial Court on the date mentioned in the abovesaid order, thus, they sought one more opportunity to appear before

the trial Court and the same was granted on 15.03.2021.

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

“7. So, taking into consideration, the above said facts, and keeping in view the statements of the parties and the Investigating Officer, this Court is of the considered opinion:-

- 1. There are two accused in the aforesaid FIR.*
- 2. No accused has been declared as proclaimed offender.*
- 3. A genuine compromise has been effected between the petitioners and the respondents NO.2 to 4 voluntarily and without and coercion or undue influence.*
- 4. The accused persons are not involved in any other case at PS Tanda except the instant FIR.*
- 5. The case is still under investigation and the challan has not been presented in the Court so far.*

Hence, the report is submitted please.

Thanking you,

Yours faithfully,

Sd/- (Renu Goyal, PCS)

Judicial Magistrate First Class,

Dasuya”

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 petitioners has submitted that the petitioners were 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 Nos.2 to 4 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.

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.

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, reported as **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 is of the opinion 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*”, reported as *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”

In view of what has been discussed hereinabove, the petition is allowed and FIR No.172 dated 15.07.2020 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Tanda, District Hoshiarpur and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

02.12.2021

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No