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

CRM-41599-2021 in/and
CRM-M-4126-2021
Date of decision : 14.12.2021

Gautam Aggarwal @ Gautam Gupta and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. G.S. Sirphikhi, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vishal Sodhi, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-41599-2021

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 29.04.2022 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. Sukhbeer Singh, AAG, Punjab, appears

and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Vishal Sodhi, Advocate appears on behalf of non-applicant/respondent No.2 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 29.04.2022 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 29.04.2022 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.166 dated 07.10.2020 registered under Sections 380/447/511/34 of the Indian Penal Code, 1860 at Police Station Division No.1, District Pathankot and all the subsequent proceedings arising therefrom on the basis of compromise.

On 29.01.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“This petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.166 dated 07.10.2020, under Sections 380, 447, 511 and 34 of the IPC, registered at Police Station Division No.1, Pathankot (Annexure P-1), and all subsequent proceedings arising therefrom, on the basis of compromise.

[2]. Ld. Counsel for the petitioners refers to Compromise Deed (Annexure P-2), and states that the matter has been amicably settled between the parties.

[3]. Notice of motion.

[4]. Mr. B.S. Sewak, Additional Advocate General, Punjab to accept notice on behalf of respondent No.1.

[5]. At this stage, Mr. Vishal Sodhi, Advocate, has put in appearance on behalf of respondent No.2-complainant, through Video Conferencing, and admits the factum of compromise.

[6]. Let requisite number of copies of the Paperbook be supplied to both the counsel.

[7]. In view of the matter, the parties shall appear before the Trial Court/Illaq Magistrate on 24.02.2021, for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

[8]. List on 07.05.2021.”

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

“Keeping in view all aspects and statements of the complainant, accused and Investing Officer ASI Dalbir Singh this Court submit its report as under:-

(I) So as to ensure identity of the parties, they were got identified from their respective counsels. Copies of Aadhaar Card of complainant and both accused were also obtained during recording of their statement.

(II) From the statements of parties there appears to be a genuine compromise between the parties without any kind of force, fraud, coercion or undue influence.

(III) As intimated by Investigating Officer there are only two accused in the First Information Report namely (I) Gautam Aggarwal aged about 44 years son of Sh. Anil Kumar Gupta son of Shri Joginder Pal Aggarwal, resident of near Clock Tower, Village Jhamat Post Office Ayaili Kalan, Ludhiana and (II) Narender Kumar son of Shri Ram Jagan son of Shri Ram Jiawan, resident of Gali No.4, Durga Mandir Gandhi Nagar, SO East Delhi.

(IV) As intimated by Investigating Officer there are only two accused and they have not been declared proclaimed offender in this case.

Report is submitted as desired.

Yours faithfully

Sd/- Parinder Singh,

Addl. Chief Judicial Magistrate,

Pathankot”

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 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.

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.166 dated 07.10.2020 registered under Sections 380/447/511/34 of the Indian Penal Code, 1860 at Police Station Division No.1, District Pathankot 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.

14.12.2021

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No