

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-3684-2019

Date of decision : 25.11.2021

Divya Dhamija

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Kamlesh, Advocate for
Mr.L.S. Chahal, Advocate
for the petitioner.

Mr.Manish Dadwal, AAG, Haryana.

None for respondents no.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.1328 dated 16.11.2018 registered under Sections 420, 120-B IPC and Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975, at Police Station Sadar, Karnal and all other consequential proceedings arising therefrom, on the basis of compromise dated 11.01.2019 (Annexure P-2).

On 12.10.2021, this Court had passed the following order:-

“ This is an application filed under Section 482 of Cr.P.C. for directing the parties to record their statements for the purpose of quashing of FIR on the basis of compromise.

Learned counsel for the applicant-petitioner has submitted that on account of communication gap, the

statements of the parties could not be recorded on 15.04.2020 and prays that one last opportunity may kindly be granted for recording their statement.

Notice of the application.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of non-applicant/respondent No.1-State of Haryana and Mr. Manoj Vashishtha, Advocate, appears on behalf of non-applicant/respondent Nos.2 and 3.

Learned counsel for the non-applicant/respondent Nos.2 and 3 also submits that there was some communication gap on account of which the statements could not be recorded and he also prays that one last opportunity be granted for recording the statements.

Keeping in view the abovesaid facts and circumstances, the parties are granted one more opportunity for getting their statements recorded and they are accordingly directed to appear before the concerned Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month.

With the said observations, the present application stands disposed of.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing in the main case i.e. 25.11.2021 containing the information as mentioned in order dated 25.01.2019 passed by the Coordinate Bench of this Court.”

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

“On the basis of the statements of the parties as well as police report, report of the undersigned on the required points is as follows:

i) Although, as per order dated 12.10.2021, complainants Shrikant Sharma and Smt.Raka Sharma did not appear before the undersigned but they had already given their joint statement on 13.2.2019 in view of order dated 25.1.2019 previously passed by Hon'ble High Court in the same matter vide which they had stated that they had no objection if FIR in question is quashed. As per order dated 12.10.2021 of Hon'ble High Court, accused/petitioner Divya Sindhu Dhamija had given his statement regarding compromise. On the basis of joint statement of the complainants recorded as per order dated 25.1.2019 and statement of accused/petitioner recorded as per order dated 12.10.2021 of Hon'ble High Court, undersigned is of the view that a lawful and genuine compromise has been effected between the parties.

Note: Complainants Shrikant Sharma and Smt.Raka Sharma did not appear before the undersigned as per order dated 12.10.2021 but they appeared before the then learned ACJM, Karnal on 13.2.2019 as per previous order dated 25.1.2019 of Hon'ble High Court.”

A perusal of the above said report would show that the compromise in the present case has been found to be genuine and bonafide, although, the statements of parties were recorded on two different dates, that of the complainants on 25.01.2019 and that of the petitioner on 12.10.2021.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and was not declared proclaimed person / offender in the present case.

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of compromise.

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 be quashed.

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 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***”, 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, this petition is allowed and FIR No.1328 dated 16.11.2018 registered under Sections 420, 120-B IPC and Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975, at Police Station Sadar, Karnal and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

November 25, 2021

Davinder Kumar

Whether speaking / reasoned Yes/No

Whether reportable Yes/No