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

CRM-37419-2021 in/and
CRM-M-5606-2020 (O&M)
Date of decision : 17.11.2021

Arun @ Annu and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

Ms. Kamlesh, Advocate for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-37419-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 06.12.2021 to an early date.

Notice in the application.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the non-applicant/State of Haryana and Ms. Kamlesh, 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 06.12.2021 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 petition is preponed from 06.12.2021 to today and 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.204 dated 07.06.2019 registered under Section 379-A the Indian Penal Code, 1860 (lateron converted to Section 379-B of IPC) at Police Station Madhuban, District Karnal (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise dated 25.01.2020 (Annexure P/2) arrived at between the parties.

On 07.02.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.204 dated 07.06.2019 under Section 379-A IPC (lateron converted to Section 379-B IPC), registered at Police Station Madhuban, District Karnal and all other consequential proceedings arising therefrom, on the basis of compromise dated 25.01.2020 (Annexure P/2) arrived at between petitioners and respondent No.2.

Notice of motion.

Mr. Arun Kumar, Assistant Advocate General, Haryana, accepts notice on behalf of respondent No.1-State and seeks time to place on record report, if any. At this

junction, Ms. Kamlesh, Advocate has put in appearance and filed Power of Attorney on behalf of respondent No.2/ complainant, which is taken on record. Complete copy of paperbook be supplied to learned State counsel and learned counsel for respondent No.2 during course of the day.

Learned counsel for respondent No.2 has given concurrence to the factum of compromise (Annexure P/2).

Let the parties appear before the trial Court/Area Magistrate, as the case may be, on 03.03.2020 for getting their statements recorded with regard to the compromise. Court is directed to report on the following points:-

- (i) how many total accused are facing the trial,*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial,*
- (iii) status/stage of the trial/case,*
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.*
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.*

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 31.03.2020. ”

In pursuance of the said order, a report has been submitted by the District and Sessions Judge, Karnal. The relevant portion of the said report is reproduced hereinbelow:-

“Sir,

With reference to the captioned subject, I have the honour to submit that in compliance with the order dated 7.2.2020, the parties appeared before this court. Statement of complainant-Mandeep Tyagi was recorded as under:-

“I am an Advocate by profession. The accused are from neighbouring villages. With the intervention of the elders, we have entered in compromise without any pressure or duress. I have received the stolen articles. I wish that the FIR registered at my instance be quashed.

From the above statement, I am satisfied that the compromise is genuine and voluntary.

As per statement of Investigating Officer, three juveniles-in-conflict with law were involved in the occurrence. Juveniles namely Vatan and Tejinder alias Teji are facing trial in this court whereas juvenile namely Arun alias Anu is facing trial before Juvenile Justice Board, Karnal. None was declared proclaimed offender at any stage of trial. Four prosecution witnesses have been examined in the trial pending before this Court being Children Court.

Copies of statements of complainant and Investigating Officer are enclosed herewith.

Thanking you,

Yours faithfully

*Sd/- District and Sessions Judge,
Karnal”*

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.

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 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.204 dated 07.06.2019 registered under Section 379-A the Indian Penal Code, 1860 (lateron converted to Section 379-B of IPC) at Police Station Madhuban, District Karnal (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise dated 25.01.2020 (Annexure P/2) arrived at between the parties, are ordered to be quashed, qua the petitioners.

17.11.2021

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No