

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

(112)

CRM-24536-2021 in/and
CRM-M-8406-2019
Date of Decision:-17.08.2021.

Sumit Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Bhavdeep S. Mamli, Advocate for the
applicant/petitioner.

Mr. Praveen Bhadu, AAG, Haryana, for
respondent No.1.

Mr. Ajay Chaudhary, Advocate for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

CRM-24536-2021

This is an application for preponing the date of hearing in the
main case in view of the fact that the matter has been compromised. The
case is stated to be listed for 13.09.2021

Notice of the application.

Mr. Praveen Bhadu, learned Assistant Advocate General,
Punjab, accepts notice on behalf of respondent No.1-State. Mr. Ajay
Chaudhary, Advocate, accepts notice on behalf of respondent No.2.

In view of the fact that the matter has been compromised, the

application is allowed and the matter is preponed and taken up on Board today itself.

CRM-M-8406-2019

This is a petition under Section 482 Cr.P.C. for quashing FIR No. 0034 dated 30.01.2019 under Sections 147, 149, 323, 427, 452 and 506 IPC, registered at Police Station Sector 9-A, Gurugram, District Gurugram and all subsequent proceedings arising therefrom on the basis of the compromise dated 15.02.2019 (Annexure P-2).

When the matter came up before a Co-ordinate Bench of this Court on 25.02.2019, the following order was passed:-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.0034 dated 30.01.2019 registered under Sections 147/149/323/427/452/506 IPC at Police Station Sector 9-A, Gurugram, District Gurugram and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion.

On the asking of the Court, Mr. Himmat Singh, DAG, Haryana accepts notice on behalf of the respondent No.1-State. Mr. Ajay Chaudhary, Advocate has entered appearance on behalf of respondent No.2.

Learned counsel for the petitioner undertakes to supply two copies of the petition to the learned opposite

counsel during the course of the day.

To come up on 29.04.2019.

Meanwhile, the parties are directed to be present before the trial Court/Illaqa Magistrate on 25.03.2019 or on any other date convenient to the Court for recording their statements with regard to compromise. The Court is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Court is further directed to send report along with the statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal case and proclamation proceedings is pending against either of the parties before the next date of hearing.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class, Gurugram to the Deputy Registrar (Criminal) of this Court. The said report is reproduced hereinbelow:-

“Subject:- Report in CrI. Misc. No.8406 of 2019 titled as Sumit Kumar V. State of Haryana and Ors. in FIR No.34 dated 30.1.2019 Under Sections 147, 149, 323, 427, 452,506 IPC, P.S. Sec-9, Gurugram.

Sir,

On the subject noted above, it is I have honour to submit that vide order dated 25.2.2019 passed by the Hon'ble High Court, this Court was directed to record the statement of both the parties and to send the report alongwith the statement of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal case and proclamation proceedings is pending against either of the parties.

In this regard, I have the honour to submit that statement of complainant namely Sh. Ajay Kataria as well as accused Sumit was recorded by this court on 25.3.2019. In his statement, the complainant Sh. Ajay Kataria stated that compromise has been effected with the accused and that he has no objection, if FIR No.34 dated 30.1.2019 under Sections 147,149, 323, 427, 452, 506 IPC lodged in P.S. Sec-9, Gurugram be quashed. Accused Sumit also stated that the matter has been compromised with the complainant voluntarily.

As per the statement of complainant recorded before this Court, it appears that his grievances against accused have been resolved and said statement has been made voluntarily, without any fear, coercion or pressure.

It is hereby also submitted that FIR no.77 dated 23.6.2017 U/s 302, 201, 216, 34 IPC read with Section 25, 54, 59 Arms Act and FIR no.309 dated 28.08.2018 U/s 148, 149, 323, 307 IPC read with Section 25, 54, 49 Arms Act, P.S. Rajendra Park, Gurugram are pending against accused Sumit as per the reply filed by I.O./ASI Jagmal, P.S. Sec-9A, Gurugram.

Submitted please.”

A perusal of the said report would that 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. It is further stated that the petitioner is involved in two other cases. Learned counsel for the petitioner has submitted that the petitioner is on bail in the said two cases.

Be that as it may, this Court is only considering quashing of the FIR in the present case on the basis of compromise, which is found to be bona fide and genuine. Nothing is being observed with respect to the said two FIRs which would proceed in accordance with law.

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 from ASI Ashok Kumar,

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 families.

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 petitioners and the complainant. Since the matter has been settled, thus, the possibility of conviction is remote and the continuation of the criminal case would only strain the relationship between the petitioner and the complainant.

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”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 0034 dated 30.01.2019 under Sections 147, 149, 323, 427, 452 and 506 IPC, registered at Police Station Sector 9-A, Gurugram, District Gurugram and proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

**(VIKAS BAHL)
JUDGE**

August 17, 2021.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.