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

CRM-23035-2021 in/and
CRM-M-16297-2021 (O&M)
Date of decision : 24.11.2021

Amrik Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sarabjit Singh, AAG, Punjab.

Mr. Barjinder Singh, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-23035-2021

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 09.02.2022 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 Singh, AAG, Punjab, appears

and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Barjinder Singh, 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 09.02.2022 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 09.02.2022 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.11 dated 11.02.2016 registered under Sections 420, 406 of the Indian Penal Code, 1860 at Police Station Begowal, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of affidavit of compromise dated 31.03.2021 (Annexure P-2).

On 20.04.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.11 dated 11.02.2016, registered under Sections 420 and 406 IPC at Police Station Begowal, District Kapurthala and all consequential proceedings emanating therefrom, on the basis of compromise, Annexure P/2 dated 31.03.2021, as well as the decision of Hon’ble the Full Bench of this Court in Kulwinder Singh Versus State of Punjab 2007(3) RCR (Criminal) 1052.

Notice of motion.

Mr. Hittan Nehra, learned Addl. AG, Punjab, accepts notice on behalf of respondent No. 1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P/2 dated 31.03.2021 as well as the judgment cited by learned counsel for the petitioners.

Mr. Barjinder Singh, learned counsel accepts notice and puts in appearance on behalf of respondent No.2 and states that he has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise, Annexure P/2 dated 31.03.2021 as well as judgment cited by learned counsel for the petitioners.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned for recording of their statements in terms of compromise Annexure P/2 dated 31.03.2021 on 17.05.2021, or any other date thereafter, convenient to the learned Illaqa Magistrate/ Duty Magistrate concerned.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 22.07.2021.

Reply, if any, be filed in the meantime.”

In pursuance of the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Bholath (Kapurthala). The relevant portion of the said report is reproduced hereinbelow:-

“In compliance of the said order, parties have appeared on 08.06.2021, and their statements under the identification of their respective counsel were recorded. As per their statements, the compromise has been voluntarily arrived in between the parties without any pressure or coercion through the respectables of the locality. Further, it is hereby intimated that as per the statement of ASI Gurnam Singh No.602/Kpt, PS Begowal, District Kapurthala, the present FIR was registered against total three accused namely Amrik Singh, Pritpal Singh and Sulinder Singh @ Surinder Singh, and no other person has been nominated as accused in the present FIR. None of the accused has been declared as proclaimed offender in this case, and the challan has been presented in this case, and no cross case is registered in the present FIR. In this regard, statements of ASI Gurnam Singh No.602/Kpt, PS Begowal, District Kapurthala, has also been recorded. Requisite statements of the parties, recorded in this Court, are being sent herewith. This is for your kind information and necessary action.

Submitted please.

Yours Sincerely,

Sd/- (Dr. Sushil Bodh)

Sub Divisional Judicial Magistrate,

Bholath, (UID PB0347)”

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”***, 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, the petition is allowed and FIR No.11 dated 11.02.2016 registered under Sections 420, 406 of the Indian Penal Code, 1860 at Police Station Begowal, District Kapurthala(Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise dated 31.03.2021 (Annexure P-2), are ordered to be quashed, qua the petitioners.

24.11.2021

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No