

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

(227)

CRM-M-17964-2019 (O&M)
Date of Decision:-15.11.2021.

Hemant Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ramesh Sharma, Advocate for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Vinod Pundir, Advocate for respondent No.2.

Mr. A.P.S. Bhinder, Advocate for respondent Nos.3 and 4.

VIKAS BAHL, J. (Oral)

CRM-31844-2021

This is an application under Section 428 of Cr.P.C. for directing the trial court to allow the petitioners to deposit Rs.5,000/- in view of the order dated 09.07.2019.

In pursuance of the last order, learned counsel for the petitioners submits that the amount of Rs.5,000/- has been paid to the complainant.

Learned counsel for the complainant also submits that the said money has been paid to the complainant by the petitioner.

In view of the above, the present application is disposed of and the main case is taken up on Board today itself for disposal.

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This is the first petition under Section 482 of Cr.P.C. for quashing of FIR No.28 dated 23.01.2016 under Sections 406, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Sector-5, Panchkula (Anexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 06.03.2019 (Annexure P-2).

On 30.04.2019, the following order was passed by a Coordinate Bench of this Court:-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.28 dated 23.1.2016 registered under Sections 406, 420, 467, 468, 471, 120-B IPC at Police Station Sector-5 Panchkula 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. Gaurav Bansal, AAG, Haryana notice on behalf of the respondent No.1 and Mr. A.P.S.Bhinder, Advocate has entered appearance on behalf of the respondents No.2 to 4.

Counsel for the petitioners undertakes to supply requisite copy of the paper book to the opposite parties during the course of the day.

To come up on 9.7.2019. Meanwhile, the parties are directed to be present before the Illaqa Magistrate/trial Court on 15.5.2019 or on any other date convenient to the Court for

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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.”

Thereafter on 09.07.2019, the following order was passed by a Co-ordinate Bench of this Court:-

“Learned counsel for the petitioners submits that he has offered a draft of ₹ 30,000/- for payment to respondent No.2. Learned counsel for respondent No. 2 submits that he is not ready to accept this draft on instructions of his client, who is present in the Court, as the petitioners under the compromise had earlier given a cheque which when presented was dishonoured by the bank. On asking of the petitioner, he again presented the cheque but payment was stopped. This has led to his harassment and he does not want to accept the same. As the petitioners have not complied with the terms of compromise, the FIR be not quashed.

After some parleys, it has been agreed that the petitioners will pay a sum of ₹ 5,000/- over and above the due amount of ₹

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30,000/-. A draft of ₹ 30,000/- has been given to learned counsel for respondent No.2 and photocopy of the same has been retained on file.

List on 13.08.2019 for remaining payment of ₹5000/-.”

Learned counsel for the petitioners and complainant have submitted that the amount of Rs.5,000/- has been paid by the petitioner to the complainant.

In pursuance of the above reproduced orders, the report has been submitted by the Judicial Magistrate First Class, Panchkula to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“With regard to specific direction of the Hon’ble High Court regarding the relevant essentials which have to be observed by the present court, my point-wise finding is that:-

- 1. This court is convinced that the compromise between the complainants Narottam Kumar, Ram Kumar and Rinku Kumar and the accused Hemant Kumar, Tilak Raj, Pawan Kumar, Shashi Kumar and Ajay Kumar is genuine and valid, as it is not the result of any undue influence or pressure in any manner. The complainant and the accused have maintained uniformity in regard to the validity of compromise. The respective affidavits of the complainants and accused (Ex.C2, Ex.C4, Ex.C6, Ex.C8, Ex.C10, Ex.C12, Ex.C14 and Ex.C16) on record further give momentum to the validity and authenticity of the*

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compromise.

2. With regard to the point as to whether any other proceeding is pending against the accused, it is submitted that the facts and circumstances of the present case alongwith the statement on oath of the accused persons and the report of concerned SHO signify that no other criminal proceedings are pending against either of the parties except the present one.

Hence, the detailed report is submitted for your kind perusal and information please.

Sd/-

*(Dr. Tarun Kumar Verma)
Judicial Magistrate First Class
Panchkula/UID No.HR-0496”*

22.05.2019

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with their own free will and without any coercion. The compromise has been found to be genuine and valid. As per the said report, it has been observed that none of the persons have been declared as proclaimed offenders in the present case and no other case is pending between the parties.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offender in the present case. Learned counsel for the State, as per

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instructions, has stated that this fact is correct.

Learned counsel for respondent No.2 as well as counsel for respondent Nos.3 and 4 have 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 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

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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.28 dated 23.01.2016 under Sections 406, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Sector-5, Panchkula (Anexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 15, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No