

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23980-2021

Date of decision : 20.12.2021

Hoshiyar Singh Saini

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr.Dinesh Khanna, Advocate and Mr.Chirag Gupta, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.560 dated 28.12.2019 registered under Sections 406/420/467/468/471 IPC and Section 120-B IPC (added later on), at Police Station Sector 58, Faridabad, District Faridabad and all other consequential proceedings arising therefrom, on the basis of compromise dated 17.06.2021 (Annexure P-2).

On 16.08.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video-conferencing.

Vide order dated 05.07.2021, petitioner was directed to join the investigation.

Learned counsel for the petitioner submits that in

compliance of aforesaid order, the petitioner has joined the investigation.

This fact has been admitted by learned State counsel.

In view of above, parties are directed to appear before the Illaqa Magistrate on 01.09.2021 for recording their statements. The concerned Court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person.

Adjourned to 03.11.2021.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class, Faridabad. The relevant portion of the said report is reproduced hereinbelow:-

“ REPORT:

In compliance of the order dated 16.8.2021 passed by Hon'ble High Court of Punjab & Haryana, the point wise replies to the queries are submitted hereinunder:-

Query No. 1:- Whether the compromise amongst the parties is genuine, voluntary, and without any coercion or undue influence?

Submission: Apropos of this query, with profound deference, I may take the liberty of submitting that on being individually enquired by the undersigned about the voluntary nature of the compromise, the accused petitioner Hoshiyar Singh Saini, and the complainant / respondent no. 2- Sh. Ram Jatan Gaur @ Ram Jatan Gond, have candidly stated that the matter has been amicably settled between them Without any contaminating, influence exercised by any one of them; and it was only after getting satisfied about its voluntary

nature, the statements of the parties were recorded, the original copy of the same are attached herewith for the kind perusal of your honour.

Query No. 2:- Whether the accused/petitioner is involved in any other case or not?

Submission:- Per the statements of the investigating officer - AST Lekh Raj, apart from the case in hand, no criminal antecedents is attached to the petitioner/accused, as no criminal case is registered against him.

Query No. 3:- Total number of the accused involved in the case?

Submission- As per the statements of the investigating officer- the petitioner Hoshiyar Singh is the singular accused in the present case.

Query No. 4:- Whether any accused is proclaimed offender?

Submission:- As per the statements of the investigating officer - the accused is not the proclaimed offender in this case.”

A perusal of the above said report would show that the compromise in the present case has been found to be genuine, voluntary, without any coercion or undue influence.

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. The said facts have been reaffirmed by the learned counsel for the State. Learned counsel for the petitioner has also submitted that the petitioner would be bound to comply with the terms of the compromise including Clause 2 and 3.

Learned counsel for respondent no.2-complainant has again

interest of all the persons and would help in bringing out peace and amity between the parties. He has, thus, prayed that FIR and subsequent proceedings may be quashed.

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.560 dated 28.12.2019 registered under Sections 406/420/467/468/471 IPC and Section 120-B IPC (added later on), at Police Station Sector 58, Faridabad, District Faridabad and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 20, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No