

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26610-2021

Date of decision : 14.12.2021

Bhagwant Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Zubin Chhura, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.354 dated 15.11.2019 registered under Sections 406 and 420 IPC and Section 24 of the Immigration Act, 1983 (added later on), at Police Station Mahesh Nagar, District Ambala and all other consequential proceedings arising therefrom, on the basis of compromise dated 25.06.2020 (Annexure P-2).

On 14.07.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“By filing this petition, quashing of FIR No. 354 dated 15.11.2019 registered under Sections 406, 420 IPC (Section 24 of Immigration Act, 1983 added later on) at Police Station Mahesh Nagar, District Ambala and other consequential proceedings arising therefrom qua petitioner has been sought on the basis of compromise.

Notice of motion.

Mr. Surender Singh, AAG Haryana accepts notice on behalf of respondent No. 1 State.

Parties may appear before learned trial Court/Illaqa Magistrate concerned on 16.8.2021 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said court. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report :

- i) regarding genuineness and voluntary nature of compromise ;*
- ii) whether all accused/petitioners are appearing before the Court or are on bail; and*
- iii) whether any other proceeding is pending against the accused/ petitioners.*

Adjourned to 17.9.2021.”

Thereafter, on 23.11.2021, learned counsel for the petitioner had prayed for one more opportunity to get the statements recorded as they could not appear on 16.08.2021 before the trial Court/Illaqa Magistrate. This Court was pleased to pass the following order on 23.11.2021:-

“Learned counsel for the petitioner has submitted that on account of communication gap, the parties could not appear before the trial Court/Illaqa Magistrate on 16.08.2021 and prays for one more opportunity to appear before the trial Court/Illaqa Magistrate to record their statements.

Adjourned to 14.12.2021.

The parties are again directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of fifteen days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”*

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

“ From the statements of the parties, I am of the opinion that the compromise is genuine, voluntary, without any coercion or undue influence. Copies of statements of the complainant, accused Bhagwant Singh and Sunil Kumar, Head Constable alongwith copies of their Adhar-cards are enclosed herewith for kind perusal of the Hon'ble High Court, please.”

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 State has stated that he has no

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.354 dated 15.11.2019 registered under Sections 406 and 420 IPC and Section 24 of the Immigration Act, 1983 (added later on), at Police Station Mahesh Nagar, District Ambala and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 14, 2021
Davinder Kumar

Whether speaking / reasoned Yes/No

Whether reportable Yes/No