

CRM-M-36776-2021 (O&M)

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

(235)

CRM-M-36776-2021 (O&M)
Date of Decision:-22.12.2021.

Anil Vig

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Kiranpal Rana, Advocate for
Mr. Bhupinder Ghai, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.111 dated 07.08.2021, registered under Sections 120-B, 420, 467, 468 and 471 of IPC at Police Station DLF-Phase II, Gurugram, Haryana (Annexure P-1) and all the consequential proceedings arising therefrom.

Initially, the petition was filed for quashing of FIR. However, during the pendency of the present petition, the matter has been compromised. In view of the same, on 14.12.2021, this Court was pleased to pass the following order:-

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“This petition under Section 482 Cr.P.C. has been filed for quashing of FIR on merits. During the pendency of the case, the matter has been compromised and learned counsel for the petitioner as well as learned counsel for respondent no.2 have submitted that the compromise is genuine and bonafide. They have further submitted that the petitioner and respondent no.2 would appear before the trial Court for recording their statements qua compromise within a period of four days from today. It would be open to respondent no.2 to make a statement to the effect that the entire FIR qua the petitioner as well as other co-accused be quashed. It would also be open to co-accused Rajat Sahni to appear before the trial Court to make a statement with respect to the compromise.

*Learned counsel for the petitioner and learned counsel for respondent no.2 have relied upon the judgment of Hon'ble Supreme Court titled as **“Jayrajsinh Digvijaysinh Rana vs. State of Gujrat and another”** reported as 2012(12) SCC 401 to contend that even on the basis of partial compromise with some of the accused, proceedings against the said accused could be quashed.*

The 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?*

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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.

Adjourned to 22.12.2021.

The interim order granted in favour of the petitioner would not come in the way of the trial Court to record the statements.”

In pursuance of the said order, the petitioner and respondent No.2 have appeared before the Additional Chief Judicial Magistrate, Gurugram, who has submitted its report to this Court. The relevant part of the report is reproduced hereinbelow:-

“Sir,

It is respectfully submitted that the undersigned was directed by the Hon’ble Punjab and Haryana High Court vide order dated 14.12.2021 passed in CRM-M-36776-2021 (O&M) to record the statements of complainant as well as accused regarding genuineness of compromise effected between them in Case FIR No.111 dated 07.08.2021 under Sections 420/467/468/471/120B of IPC, P.S. DLF Phase-II, Gurugram and to submit a report. The complainant Jatin Bhagat as well as accused Anil Vig and the investigating officer SI Roshan Lal

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appeared in Court on 17.12.2021. All of them have been examined by the undersigned regarding the genuineness of the compromise and in this regard, their separate statements were also recorded. On the basis of statements made by the parties, this Court is of the considered view that the compromise effected between the parties is genuine and without any coercion or pressure. Point wise, information pertaining to the present case is: i) As per the statement of IO two persons have been arrayed as accused in the present FIR; ii) As per the statement of IO accused persons were not declared proclaimed offender in the present FIR; iii) The compromise is genuine, voluntary and without any coercion or undue influence; iv) As per the statement of IO no other FIR is pending against the accused persons; v) Separate statement of investigating officer was recorded and as per his statement there is only one complainant/victim in the present FIR.

The requisite report is being submitted please.

Yours faithfully

Sd/-

(Manoj Kumar Rana)”

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

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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 against the petitioner.

A perusal of the above report would further show that the compromise is stated to be voluntary, genuine and without any coercion or undue influence. Although it was noticed in the order dated 14.12.2012 that it would be open to the parties to appear before the trial Court including co-accused Rajat Sahni, to appear before the trial Court to make a statement with respect to the compromise. However, the said Rajat Sahni is not available and his statement was not recorded.

Learned counsel for the petitioner has placed reliance upon the judgement passed by the Hon'ble Supreme Court in **Lovely Salhotra and another Vs. State (NCT of Delhi) and another**, reported as ***(2018) 12 SCC 391*** to submit that in such a situation, even partial compromise is permissible.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent Nos.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 parties.

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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 is of the opinion 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

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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.111 dated 07.08.2021, registered under Sections 120-B, 420, 467, 468 and 471 of IPC at Police Station DLF-Phase II, Gurugram, Haryana (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

Since the main case has been decided, pending miscellaneous applications also stand disposed of.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No