

**(236) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-36881-2021

Date of Decision: 27.10.2021

Azad and others

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Rajesh Goyal, Advocate
for the petitioners.

Mr. G.S. Dhillon, A.A.G. Haryana.

Mr. Dinesh Saini, Advocate
for respondent No.2.

VIKAS BAHL, J. (Oral)

Case is taken up for hearing through video conferencing.

Learned counsel for the petitioners at the very outset has submitted that on account of an inadvertent error, offence under Section 379 IPC has been mentioned instead of Section 379-B IPC in the head note of the petition as well as in the relief clause and therefore, prays that as per FIR No.950 dated 04.09.2016 registered at Police Station Chandni Bagh, District Panipat wherein various Sections have been mentioned, Section 379 IPC be read as Section 379-B IPC in the head note of the petition as well as relief clause of the petition.

There seems to be an inadvertent error in mentioning Section 379 IPC in the head note of the petition as well as relief clause of the petition. Therefore, on the oral request of the learned counsel for the petitioners, necessary correction is ordered to be made in the petition and Section 379 IPC be read as Section 379-B IPC in the petition wherever it is necessary. Accordingly, Registry is directed to do the needful.

This is a petition filed under Section 482 Cr.P.C for quashing of FIR No.950 dated 04.09.2016 under Sections 148, 149, 323, 379-B, 427, 452 and 506 of IPC (Sections 324, 325 and 326 IPC Added later on) registered at Police Station Chandni Bagh, District Panipat, and subsequent proceedings arising therefrom on the basis of compromise dated 24.08.2021 (Annexure P-2) effected between the parties.

On 07.09.2021, when this matter came up before a co-ordinate Bench, the Court was pleased to pass the following order:

“The petitioners are seeking quashing of FIR No.950 dated 04.09.2016, under Sections 148, 149, 323, 379, 427, 452 and 506 IPC (Sections 324, 325 and 326 IPC added later on) registered at Police Station Chandni Bagh, District Panipat, on the basis of compromise dated 24.08.2021 (Annexure P-2), which has been arrived at between the parties.

Learned counsel for the petitioners contends that the FIR is outcome of a sudden altercation between the residents of same village. The injury for which offence under Section 326 IPC has been invoked was a hand blow on the arm of the injured who has fully recovered from the injury. He also contends that with the intervention of the respectables, the matter has been compromised. He has referred to the copy of the compromise at Annexure P-2.”

Issue notice to the respondents.

At the asking of the Court, Mr. Deepak Bhardwaj, DAG, Haryana, accepts notice on behalf of respondent No.1.

Mr. Ravi Malik, Advocate has put in appearance on behalf of the complainant/respondent No.2 and states that the matter has indeed been compromised.

List on 27.10.2021.

In the meantime, the parties are directed to appear before Illaqa Magistrate/trial Court on 20.09.2021. The Illaqa Magistrate/trial Court shall record their statements with regard to the genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.

In pursuance of the said order, a report has been submitted by the Additional District & Sessions Judge, Panipat. The relevant part of the said report is as follows:

“In compliance of the orders passed by the Hon'ble Punjab and Haryana High Court on 07.09.2021 in CRM-M-36881 of 2021, the parties were personally inquired regarding the genuineness of the compromise wherein they have submitted that the compromise has been effected without any undue influence and coercion from any quarter. In view of the statements of the parties, the compromise appears to be genuine.

Sd/-

(Nishant Sharma)

ASJ, Panipat

UID No.HR-0216”

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.

As per the Full Bench Judgment of this Court in “Kulwinder Singh and others v. 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 feel that the same was 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 v. 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. x x x - - - x x x”

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 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.

In view of what has been discussed hereinabove, the petition is

allowed and FIR No.950 dated 04.09.2016 under Sections 148, 149, 323, 379-B, 427, 452 and 506 of IPC (Sections 324, 325 and 326 IPC Added later on) registered at Police Station Chandni Bagh, District Panipat, and subsequent proceedings arising therefrom on the basis of compromise dated 24.08.2021 (Annexure P-2) effected between the parties, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

27.10.2021
rajeev

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No