

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

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**CRM-M-31672-2020 (O&M)
Decided on : 25.10.2021**

Vihaan Kanwal and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Lakshay Bector, Advocate
for the petitioner.

Mr. N. K. Banka, DAG, Punjab.

Mr. Saurav Kanojia, Advocate for
Mr. Ishmeet Singh, Advocate
for respondent No. 2.

Mr. Gulzar Mohammad, Advocate
for applicant/respondent No. 3 (in CRM-903-2021)

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 247 dated 26.09.2017 under Sections 324, 323, 506, 148, 149, 427 IPC, registered at Police Station City Khanna (Annexure P-1) on the basis of compromise dated 25.09.2020 (Annexure P-3) and affidavit dated 24.09.2020 (Annexure P-4).

On 08.10.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 247 dated 26.09.2017 under Sections 324, 323, 506, 148, 149, 427 IPC, registered at Police

Station City Khanna, District Ludhiana, on the basis of compromise dated 25.09.2020 (Annexure P-3) and affidavit dated 24.09.2020 (Annexure P-4).

Notice of motion.

Mr. Hittan Nehra, Addl. A.G., Punjab accepts notice on behalf of respondent No. 1. Mr. Ishmeet Singh, Advocate has put in appearance on behalf of respondent No.2. He is directed to file his original power of attorney in the office.

It is further pointed out that the charges as such have been framed by the Sub-Divisional Judicial Magistrate, Khanna on 07.12.2019 (Annexure P-2).

Accordingly, keeping in view the fact that the parties have entered into a compromise and the nature of the allegations in the FIR, the parties are directed to appear before the Illaqa Magistrate/trial Court on 22.10.2020, which is the date stated to be fixed before the Trial Court, for getting statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*

Report of Illaqa Magistrate/trial Court be awaited for 20.01.2021.”

In pursuance of the said order, a detailed report has been submitted by the Additional Civil Judge (Sr. Division)-cum-SDJM,

Khanna. The relevant portion of the said report is reproduced hereinbelow:

“From the perusal of statement of parties, it transpires that the compromise entered between the parties is genuine, voluntarily and is out of free will of the parties. It is further submitted that the present case is at the stage from prosecution evidence. It is further submitted that the name of the complainant of the present case is Satnam Singh son of Piara Singh and he is the only injured/victim of the present case and he has made the statement in support of the compromise. It is further submitted that there is no other injured/victim of the occurrence under the present FIR. It is further submitted that as per the report of ahlmad, no accused has been declared as proclaimed offender or is absconding in the case and all the accused persons have made the statement before the court of the undersigned.

Report is submitted as desired, please.”

A perusal of the said report would show that 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.

It is further submitted that in the present case, there is only one injured/victim and his statement has been recorded in support of the said compromise and that none of the accused have been declared as proclaimed offender or is absconding.

At this stage, it would be relevant to mention that Sh. Gulzar Mohammad, Advocate had appeared for the applicant-Piara Singh who is stated to be the father of respondent No. 2 and has objected to the said petition on the ground that the petitioner is the owner of the car bearing no. PB-26-C-2195, which has also been damaged in the present case and thus, he too is a victim and the compromise should also be effected with him also and in the absence of the same, the present petition should be dismissed.

Learned counsel for the petitioner as well as the complainant-respondent No. 2 have referred to the documents which have been placed on record by the applicant/father of the complainant himself. It has been stated that as per the Registration Certificate of the car in question, initially its ownership was of Harvinder Singh and the same was sold to Manjeet Kumar subsequently. In the said documents, there is no reference to the factum of the applicant being the owner of the car in question. It is further submitted that the document of ownership is solely the Registration Certificate. Learned counsel for the petitioner has argued that even assuming the affidavits Annexure A-8 and A-9 are taken into consideration, then also the same cannot be even remotely proved that the applicant was a victim inasmuch as, admittedly, the incident in question took place on 26.09.2017 whereas, the said affidavits are dated 23.10.2017, thus, on the date of the said incident, the applicant cannot be even remotely stated to be the owner of the car in question.

Learned counsel for the applicant/respondent No. 3 has submitted that the he was in possession of the said car.

This Court has heard the learned counsel for the parties and considered the arguments advanced with respect to the impleadment of the applicant/respondent No. 3- Piara Singh and has come to the conclusion that the applicant/respondent No. 3 is not a victim and thus, the application for impleadment i.e. CRM-903-2021 deserves to be dismissed. As per the Registration Certificate, the non-applicant is not shown to be the owner of the car in question till date. Reliance placed upon the alleged affidavits dated 23.10.2017 would not further the case of the applicant inasmuch as the incident had taken place on 26.09.2017. With respect to the possession, there is nothing on record to prove the same and at any rate, mere possession cannot give any ownership right to a person. Moreover, in the present case, the son of the applicant was involved in the incident and the injured has already compromised the matter. The said compromise has been found to be genuine and bonafide and thus, the present application has been filed only to unsettle the matter which has already been settled between the petitioner and the complainant. In view of the above, the application bearing CRM-903-2021 filed by the applicant-respondent No. 3 is dismissed.

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 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 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”.

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 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 247 dated 26.09.2017 under Sections 324, 323, 506, 148, 149, 427 IPC, registered at Police Station City Khanna (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise arrived at between the parties dated 25.09.2020 (Annexure P-3) and affidavit dated 24.09.2020 (Annexure P-4), are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

25.10.2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No