

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37008-2021

Date of decision : 30.11.2021

Roshan Vishkarma and another

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kunal Muthreja, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

Ms.Krity Lohar, 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.34 dated 13.07.2021 registered under Sections 419, 420 IPC at Police Station Cyber Crime, District Faridabad and all other consequential proceedings arising therefrom, on the basis of compromise dated 24.08.2021 (Annexure P-2).

On 09.09.2021, this Court had passed the following order:-

“ This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.34 dated 13.07.2021 (Annexure P-1) registered under Sections 419, 420 of the Indian Penal Code, 1860 at Police Station Cyber Crime, District Faridabad and subsequent proceedings arising therefrom on the basis of compromise/settlement dated 24.08.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted

that all the persons concerned are party to the compromise.

Notice of motion for 30.11.2021.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Ms. Kirty Lohar, Advocate appears on behalf of respondent No.2.

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

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, Faridabad. The relevant portion of the said report is reproduced hereinbelow:-

“ In compliance of order dt. 09.09.2021 passed by Hon'ble Punjab and Haryana High Court, the information is furnished as under:-

- 1) Accused namely Roshan Vishkarma son of Chhote Lal, Sonu son of Shri Shyam Lal and Sharwan Tiwari were arrayed as accused in the present case. Accused Roshan and Sonu have been arrested. Arrest of Sharwan Tiwari is still pending. As per contents of the challan,*

investigation of the present case has not been completed. Police is yet to join account holders of the account in which alleged defrauded amount was deposited and also the sim holders of the mobile numbers which were allegedly used for making calls to the complainant.

2) As per statement suffered by IO Narender Kumar, both accused namely Roshan and Sonu have not been declared PO.

3) Compromise appears to be genuine or voluntarily and without any coercion or undue influence.

4) As per statement of IO Narender Kumar, no other case is pending against accused who have been arrested in this case.

5) Statement of Investigating Officer Narender Kumar recorded and as per his statement complainant Mahenderi Devi is the only victim in the present case.

The report is being submitted for your kind perusal please.”

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

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and were not declared proclaimed person / offender in the present case.

Learned counsel for respondent no.2-complainant 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. He prayed that FIR and subsequent proceedings may be quashed.

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 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.

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.34 dated 13.07.2021 registered under Sections 419, 420 IPC at Police Station Cyber Crime, District Faridabad and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 30, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No