

CRM-M-37330-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(243)

CRM-M-37330-2021.

Date of Decision:-30.11.2021.

Amit Kumar Garg and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gaurav, Advocate for
Mr. S.K. Tripathi, Advocate for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.
Mr. Vikrant Rana, 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.892 dated 15.12.2018, registered under Sections 380, 427, 447, 457, 506 and 34 of IPC at Police Station Sadar, District Gurugram (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 20.08.2021 (Annexure P-2).

On 13.09.2021, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.892 dated 15.12.2018 (Annexure P-1) registered under Sections 380/427/447/457/506/34 of the Indian Penal Code, 1860 at Police Station Sadar, District Gurugram and the subsequent proceedings arising therefrom on the basis of compromise.

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.*

*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, the report has been submitted
by the Additional Chief Judicial Magistrate, Gurugram to the Registrar
General of this Court. The relevant part of the report is reproduced
hereinbelow:-

“On the basis of statements made by 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) Two persons are arrayed as accused in the present FIR; ii) Accused persons were not declared as proclaimed offender in the present FIR; iii) The compromise is genuine, voluntary and without any coercion or undue influence; iv) An FIR No.473 dated 10.05.2019, P.S. Sadar, under Sections 147/149/323/451/506 of IPC is pending against the accused Amit Kumar Garg and accused Shivani Garg is not involved in any other case; 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)”

As per the said report, one more case is pending against accused Amit Kumar-petitioner No.1. The same would not come in the way of the present petition for quashing of the FIR as the compromise effected between the parties is bona fide and genuine.

A further 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 being entered into with their own free will and without any

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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 between the parties.

Learned counsel for the petitioners has submitted that they 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 parties.

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 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

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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.892 dated 15.12.2018, registered under Sections 380, 427, 447, 457, 506 and 34 of IPC at Police Station Sadar, District Gurugram (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 30, 2021.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No