

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

CRM-M-38067-2021

Date of decision : 24.11.2021

Ankit @Ankit Rozara and another

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Arun Sharma, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

Mr.Ankit Aggarwal, 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.546 dated 13.08.2021 registered under Sections 323, 324, 34, 506 IPC (Section 326 IPC added later on) at Police Station Assandh, District Karnal and all other consequential proceedings arising therefrom on the basis of compromise dated 18.08.2021 (Annexure P-2).

On 15.09.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“ Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No. 546 dated 13.08.2021 registered under Sections 323, 324, 34, 506 IPC to which Section 326 IPC was added later on at Police Station Assandh, District Karnal along with all consequential proceedings emanating therefrom on the

*basis of compromise, Annexure P-2 dated 18.08.2021 as well as decision of Hon'ble the Full Bench of this Court in **Kulwinder Singh and Others v. State of Punjab and another, 2007 (3) RCR (Crl.) 1052.***

Notice of motion.

Mr. Gurbir Dhillon, AAG, Haryana, accepts notice on behalf of respondent No.1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P-2 dated 18.08.2021 as well as the judgment cited by learned counsel for the petitioners.

Mr. Ashok K. Sharma, Advocate, puts in appearance and has filed Memo of appearance on behalf of respondent No.2. The same is taken on record. He states that he has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise, Annexure P-2 dated 18.08.2021 as well judgment cited by learned counsel for the petitioners.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned for recording of their statements in terms of compromise, Annexure P-2 dated 18.08.2021 on 14.10.2021 or any other date thereafter, convenient to the learned Illaqa Magistrate/ Duty Magistrate concerned.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 24.11.2021.

Reply, if any, be filed in the meantime."

In pursuance of the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Assandh. The relevant portion of the said report is reproduced hereinbelow:-

“Statements of both the parties i.e. complainant Rinku and accused Ankit (@Ankit Rozera and Rakesh Kumar were recorded on oath. All of them made statements to the effect that they have voluntarily and amicably settled the present case. The complainant further submitted that he has no objection if the present FIR is quashed. The accused requested that in view of the statement given by him and the complainant, the present FIR be quashed. They also submitted that they have given the statements in the Court without any fear, pressure or coercion. In view of the statements given by the complainant and accused in the court, it appears that the compromise has been entered into voluntarily and without any pressure or influence from any side. It is submitted that the case is fixed for prosecution's evidence.

In compliance of order dt 15.09.2021 passed by the Hon'ble High Court, the report of SHO P.S. Assandh was also called directing him to inform the number of accused in the present case, as to whether any accused has been declared a P.O. and as to whether there is any cross case between the parties to the petition.

Consequent upon the issuance of notice, the detailed report was filed in the Court on behalf of SHO P.S. Assandh wherein it was informed that there are only two accused, namely, Ankit (@ Ankit Rozera and Rakesh Kumar in the present case, that no accused has been declared a proclaimed offender and that no cross case exists between the parties.

Submitted please. ”

A perusal of the above said report would show that the

compromise in the present case has been found to be voluntary, without any pressure or influence.

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

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of compromise.

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.

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.546 dated 13.08.2021 registered under Sections 323, 324, 34, 506 IPC (Section 326 IPC added later on) at Police Station Assandh, District Karnal, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 24, 2021

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No