

CRM-M-38775-2021

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

(232)

CRM-M-38775-2021.
Date of Decision:-21.12.2021.

Sumit Tiwana

.....Petitioner

Versus

State of UT, Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Babbar Bhan, Advocate for the petitioner.

Mr. Shashank Bhandari, A.P.P. U.T., Chandigarh.

Mr. Raman Chawla, Advocate for
Mr. Anil Dutt, Advocate for
respondent Nos.2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.148 dated 17.07.2018, registered under Sections 147, 148, 149, 323, 452, 506 and 34 of IPC at Police Station North, Chandigarh (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 13.09.2021 (Annexure P-4).

On 03.11.2021, this Court was pleased to pass the following order:-

“CRM-36869-2021

This is an application for placing on record the affidavits

CRM-M-38775-2021

of respondent Nos.2 and 3 as Annexure P-5 and P-6. The application is allowed and the affidavits Annexure P-5 and P-6 are taken on record, subject to all just exceptions.

CRM-M-38775-2021

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.148 dated 17.7.2018 (Annexure P-1) registered under Sections 147, 148, 149, 323, 452, 506 and 34 IPC at Police Station North, Chandigarh and all other consequential proceedings arising therefrom on the basis of compromise deed dated 13.09.2021 (Annexure P-2).

Learned counsel for the petitioner as well as learned counsel for respondents No.2 and 3 submitted that the matter has been amicably compromised and thus prays that the statement of the parties be recorded.

Accordingly, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 20 days.

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*

CRM-M-38775-2021

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.

Adjourned to 14.12.2021.”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate Ist Class, Chandigarh to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“3. Thereafter, accused Sumit Tiwana and Akshay Sharma got recorded their joint statement that they have been arrayed as accused in FIR No.148 dated 17.07.2018, under Sections 147, 148, 149, 323, 452, 506 and 34 IPC. Now, with the intervention of well wishers, common friends and respectable persons, they have amicably settled their disputes with the complainant namely Mohan Kumar and injured Mahinder Singh. The copy of compromise deed dated 13.09.2021 is Ex. C1 and affidavit dated 19.10.2021 and 27.10.2021 Ex. C2 and Ex.C3 respectively. All the accused have appeared and are on bail.

XXX---XXX---XXX

Since the matter has been compromised by the complainant and victim with the accused persons without any pressure, coercion or threat from any side, who have no objection with regard to quashing of FIR on the basis of compromise, therefore, compromise is complete, genuine, valid

CRM-M-38775-2021

*and good in the eyes of law. Therefore, report is thus submitted
for your goodself's perusal.*

Sd/-

*Chetesh Gupta HCS
Judicial Magistrate, Ist Class,
Chandigarh, Dated 10.12.2021.
UID-HR0432”*

A 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 coercion. The compromise has been found to be genuine and valid.

Although the present petition was filed by one petitioner i.e. Sumit Tiwana and one more accused Akshay Sharma and in total there are five accused out of which, three accused had earlier filed the petition for quashing on the basis of compromise and a Co-ordinate Bench of this Court vide order dated 06.12.2018 and 12.02.2020 (Annexures P-3 and P-4) was pleased to allow the same qua the said petitioners therein and the fifth accused i.e. Akshay Sharma has also appeared before the trial Court and had got his statement recorded, as is apparent from the perusal of the relevant portion of the above-said report and the counsel appearing for respondent Nos.2 and 3, complainant/victim has specifically stated that they have no objection in case the entire FIR is quashed including qua accused Akshay Sharma.

Learned counsel for the petitioner has submitted that there is

CRM-M-38775-2021

no other FIR against the petitioner and he was 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 Nos.2 and 3 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 is of the opinion 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

CRM-M-38775-2021

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.148 dated 17.07.2018, registered under Sections 147, 148, 149, 323, 452, 506 and 34 of IPC at Police Station North, Chandigarh (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed.

(VIKAS BAHL)
JUDGE

December 21, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No