

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 22.11.2021

1.

CRM-M-42371-2021

Karan Arora and others

... Petitioners

Versus

State of Punjab and others

... Respondents

2.

CRM-M-41707-2021

Karan Arora and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Shiv Kumar Sharma, Advocate
for the petitioners.

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

Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Raghav Gulati, Advocate
for respondents no.2 to 4.

VIKAS BAHL, J.(ORAL)

This order will dispose of aforesaid two petitions. The first
CRM-M-42371-2021 has been filed by five petitioners under Section 482
Cr.P.C. for quashing of FIR no.0139 dated 14.09.2016 registered under
Sections 406, 420, 120-B IPC (Section 447 of the Companies Act, 2013

the basis of compromise dated 25.04.2021 (Annexure P-6).

The second petition CRM-M-41707-2021 has been filed by three petitioners (who are also petitioner nos.1 to 3 in CRM-M-42371-2021) under Section 482 Cr.P.C. for quashing of impugned orders dated 25.04.2017 and 12.07.2017 whereby the petitioners were declared as proclaimed persons in FIR no.0139 dated 14.09.2016 registered under Sections 406, 420, 120-B IPC (Section 447 of the Companies Act, 2013 added later on) at Police Station City Nawanshahar, District SBS Nagar, on the basis of compromise dated 25.04.2021.

In CRM-M-42371-2021 (**Ist case**), on 08.10.2021 this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.139 dated 14.09.2016 registered under Sections 406/420 and 120-B of the Indian Penal Code, 1860 (Section 447 of the Companies Act, 2013 has been added later on) at Police Station City Nawanshahar, District SBS Nagar and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-6).

Learned counsel for the petitioners has submitted that petitioner Nos.1 to 3 are residing abroad and are not available and thus, prayer has been made that the said three petitioners would send their attested affidavits affirming the compromise and the said affidavits be taken into consideration by the trial Court for the purpose of giving its report with respect to the compromise.

Notice of motion for 22.11.2021.

On asking of the Court, Mr. Saurav Khurana, Deputy Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Dr. Anmol

Rattan Sidhu, Sr. Advocate alongwith Mr. Raghav Gulati, Advocate appears on behalf of respondent Nos.2 to 4.

Learned Senior Counsel for respondent Nos.2 to 4 has reiterated the fact that in the present case, compromise has been effected which has been duly signed by all the parties concerned and has no objection in case petitioner Nos.1 to 3 do not appear personally before the trial Court and their affidavits duly attested are taken into consideration for the purpose of giving report on the compromise.

Petitioner Nos.4 and 5 and the complainant party are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month.

In view of the consensus arrived at between the parties, petitioner Nos.1 to 3 would send their affidavits duly attested to the trial Court and the trial Court would consider the said affidavits while submitting the report with respect to the compromise. The personal appearance of petitioner Nos.1 to 3 would not be required.

In the meantime, further proceedings in the FIR be stayed. However, the said order would not come in the way of the trial Court to record the statements regarding the compromise.

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.*

To be heard alongwith CRM-M-41707-2021.”

In pursuance to the said order, the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar, has submitted his report dated 11.11.2021.

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

“3. It is further submitted that, on 10.11.2021, statement of IO/ASI Ravinder Kumar, No.337/SBS Nagar was recorded. On the basis of said statements, the report is submitted, as under, for the kind consideration of the Hon'ble High Court please:-

(i) There are five accused in the present case namely Amit Kumar, Harish Kumar (i.e. facing trial before the Court), accused Karan Arora, Jasmine Arora and Gaurav Arora (not joined in the investigation and not present before the trial Court, but their presence has been exempted by Hon'ble High Court)

(ii) Accused Karan Arora and Jasmine Arora were declared as 'proclaimed persons' on 12.07.2017, whereas, accused Gaurav Arora was declared as proclaimed person on 25.04.2017.

(iii) The compromise is genuine, voluntary and without any coercion or undue influence, as is apparent from the statements of the parties suffered before this Court and on the basis of affidavits sent by accused Karan Arora, Jasmine Arora and Gaurav Arora.

(iv) As per the report submitted by the Police Station City, Nawanshahr, accused Karan Arora, Jasmine Arora, Gaurav Arora and Amit Kumar are involved in case bearing FIR No.41 dated 18.03.2017, under Sections 406, 420, 120-B, 447

of IPC, registered at P.S. Jandiala Guru, District Amritsar.

(iv) As per the record, there are three victims/complainants namely Vikas Soni, Tilak Raj and Deepak Dutta in the present FIR.

The report is, therefore, submitted for the kind consideration of the Hon'ble High Court please."

In CRM-M-41707-2021 (**IInd case**), on 06.10.2021, this Court had passed the following order:-

"Learned counsel for the petitioners inter alia contends that in the present case, compromise has been effected and the same has been annexed as Annexure P-6 with the present petition.

Notice of motion.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of respondent No.1-State and seeks time to get instructions.

Mr. Anmol Rattan Sidhu, Sr. Advocate alongwith Mr. Raghav Gulati, Advocate appears on behalf of respondent Nos.2 to 4 and has also reiterated the fact that the compromise has been effected in the present case and the petition under Section 482 of Cr.P.C. for quashing of FIR on the basis of compromise has already been filed.

Adjourned to 22.11.2021.

In the meantime, the operation of impugned orders dated 25.04.2017 and 12.07.2017 [Annexures P-4 (Collectively)], shall remain stayed."

A perusal of report submitted by the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar, would show that compromise has been effected between the parties in the present case and the same has been found to be genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR registered against the petitioners.

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

Learned senior counsel for respondent nos.2 to 4 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 therefrom may be quashed and the orders dated 25.04.2017 and 12.07.2017 may be set aside.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the Chief Judicial Magistrate, 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”

Thus, keeping in view the above said facts and circumstances of the case, both the present petitions are allowed and FIR no.0139 dated 14.09.2016 registered under Sections 406, 420, 120-B IPC (Section 447 of the Companies Act, 2013 added later on) at Police Station City Nawanshahar, District SBS Nagar, and all the subsequent proceedings arising therefrom are quashed, qua the petitioners and the impugned orders dated 25.04.2017 and 12.07.2017 challenged in CRM-M-41707-2021 (IInd case) are set aside.

(VIKAS BAHL)
JUDGE

November 22, 2021

Davinder Kumar