

CRM-M-41972-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(234)

CRM-M-41972-2021.
Date of Decision:-21.12.2021.

Ankit and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Khatri, Advocate for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

None 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.457 dated 17.08.2021, registered under Sections 323, 307, 34 of IPC, at Police Station Sampla, District Rohtak (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise in the shape of affidavits (i.e.,Annexures P-3 and P-4).

On 06.10.2021, this Court was pleased to pass the following order:-

*“This is a petition filed under Section 482 of Cr.P.C.
for quashing of FIR No.457 dated 17.08.2021 registered
under Sections 323, 307, 34 of the Indian Penal Code, 1860
at Police Station Sampla, District Rohtak (Annexure P-1) and*

all the subsequent proceedings arising therefrom on the basis of compromise (Annexures P-3 and P-4).

Learned counsel for the petitioners has contended that in the present case, the FIR has straightway been registered under Section 307 of IPC without there being any opinion of the Doctor to the effect that any injury so caused, is dangerous to life. It is further submitted that Section 307 of IPC is not made out in the present case.

Notice of motion for 15.11.2021.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of respondent No.1-State and Mr. Lajpat Rai Sharma, Advocate appears on behalf of respondent Nos.2 and 3.

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.”

It was specifically noticed in the above order that offence under Section 307 of IPC was not made out as the FIR had been registered under Section 307 of IPC without there being no doctor's opinion declaring any injury to be dangerous to life.

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

“2. On oral inquiry both the parties have stated that the matter has been settled amicably without any pressure. I also specifically inquired from the complainant about the validity of compromise. Complainant and injured have stated that the compromise arrived at in the said matter is voluntarily and without any pressure or coercion.

3. Statements of both the parties regarding compromise recorded. Same are attached herewith.

*4. It is submitted that I am satisfied that the matter has been settled between the parties amicably/voluntarily without any pressure or coercion. Roshni is the complainant in the present case and FIR was registered against Ankit and Suraj Parkash who are arrayed as accused persons in the present case. **As per the statement of ASI Parkash Chand (Investigating Officer of the present case), accused Suraj Parkash is found involved in another case bearing FIR No.235 dated 16.06.2020 under***

***Sections 395/397/148/149/448/506 of the Indian Penal Code
and 25/27/30 of Arms Act registered with Police Station
Sampla, Rohtak.***

5. *As per the statement of the Investigating Officer, Roshni is the complainant and Bijender is the injured/victim in the present case. Till date, none of the accused has been declared Proclaimed Offender.*

6. *Submitted Please.*

Sd/-

*(Madhur Bajaj),
Judicial Magistrate First Class
Rohtak, 18.11.2021
UID-HR0373”*

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. As per the said report, it has been observed that none of the persons have been declared as proclaimed offenders in the present case.

A perusal of the report would further show that it was specifically inquired from the complainant and also from the injured as to whether the compromise has been arrived at and the said persons have submitted that the same is genuine and has been entered into voluntarily without any threat or coercion.

Learned counsel for the petitioners has submitted that they

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were not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 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

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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.457 dated 17.08.2021, registered under Sections 323, 307, 34 of IPC, at Police Station Sampla, District Rohtak (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 21, 2021.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No