

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

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CRM-M-42501-2021

Decided on : 28.10.2021

Surender Kumar

. . . Petitioner

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Partap Singh, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. M. S. Kathuria, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 981 dated 25.09.2012 registered under Sections 406, 420, 467, 468, 471, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station City Karnal, District Karnal (Annexure P-1) and order dated 30.03.2016 (Annexure P-2) vide which the petitioner was declared as proclaimed offender and all subsequent proceedings arising therefrom on the basis of the compromise dated 04.10.2021 (Annexure P-5).

When the matter came up before this Court on 08.10.2021, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.981 dated 25.09.2012 registered under Sections 406, 420, 467, 468, 471, 506, 34 of the Indian Penal

Code, 1860 at Police Station City Karnal, District Karnal (Haryana) (Annexure P-1) and order dated 30.03.2016 (Annexure P-2) vide which the petitioner was declared as proclaimed offender and all the subsequent proceedings arising therefrom on the basis of compromise dated 04.10.2021 (Annexure P-5).

Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise. He has further submitted that since the matter has been compromised and the petitioner has to appear before the trial Court for recording the statement, thus, he prays that operation of order dated 30.03.2016 (Annexure P-2) vide which the petitioner was declared proclaimed offender be stayed.

Notice of motion for 28.10.2021.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Mr. M.S. Kathuria, Advocate appears on behalf of respondent No.2.

Learned counsel for respondent No.2 has affirmed the factum of compromise effected between the parties and he has stated that he has no objection in case the operation of order dated 30.03.2016 (Annexure P-2) vide which the petitioner was declared as proclaimed offender is stayed.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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 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 the meantime, the operation of the order dated 30.03.2016 (Annexure P-2) shall remain stayed and in case, the petitioner appears before the trial Court for recording of his statement, he would be admitted to bail subject to the satisfaction of the trial Court. ”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Karnal to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“The parties have assured the undersigned that they are satisfied with the compromise. Both the parties have been duly identified by their respective counsel. In my opinion, the compromise is genuine, voluntary and without any coercion or undue influence as both the parties had assembled in the Court and made the statements voluntarily. The copies of statements of both the parties are hereby enclosed.

The trial Court was also directed to provide other information for which report was called from the investigating officer of the case (copy of which is attached). The information provided by him is as follows:-

- 1. Besides present accused Surinder, there were three other accused in the present FIR out of which accused Vikram was acquitted on 17.08.2021 whereas accused Subhash and Mamta were found innocent during investigation.*

2. *Only the present accused is a proclaimed person and he was declared so vide order dated 30.03.2016.*
3. *None of the accused is involved in any other FIR.*
4. *There is only complainant/victim namely Praveen Kumar in the FIR.”*

The report is submitted as desired, please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure. Although, it is stated that the petitioner was declared as proclaimed offender vide order dated 30.03.2016 but, however, the said fact would not come in the way of quashing of the present petition on the basis of compromise.

Learned counsel for respondent No. 2-complainant has submitted 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 two parties.

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 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”

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 981 dated 25.09.2012 registered under Sections 406, 420, 467, 468, 471, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station City Karnal, District Karnal (Annexure P-1) and order dated 30.03.2016 (Annexure P-2) vide which the petitioner was declared as proclaimed offender and all subsequent proceedings arising therefrom on the basis of the compromise dated 04.10.2021 (Annexure P-5), are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

28th October, 2021
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No