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

CRM-31316-2021 in/and
CRM-M-34189-2019
Date of decision : 28.09.2021

Naresh Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Achin Gupta, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Abhishek Singla, Advocate for
Mr. J.S. Lalli, Advocate for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-31316-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 26.11.2021 to an early date in view of the fact that the matter has been compromised and the statements of the parties regarding the compromise have also been recorded

Notice in the application.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr.

Abhishek Singla, Advocate for Mr. J.S. Lalli, Advocate, appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 26.11.2021 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the main petition is taken on Board today itself for final disposal.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.98 dated 07.07.2019 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Sadar Bathinda, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise.

On 22.08.2019, the Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioner refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.98 dated 07.07.2019 (Annexure P-1) under Section 420 IPC registered at Police Station Sadar Bathinda on the basis of compromise dated 24.07.2019 (Annexure P-2).

Notice of motion for 11.11.2019.

Mr. Jagjot Singh Lalli, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

Accordingly, the private parties are directed to

appear before the trial Court/Illaq Magistrate on 18.09.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 in FIR.*
- 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 case or not.*
- 5. The trial Court is also directed to record the statement of the Investigation Officer as to how many victims/complainants are there in the FIR.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.”

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

“After going through the statements given by the parties, I am of the view that compromise between the parties is genuine, voluntary and without any coercion or undue influence.

It is further submitted that statement of Amit Kumar Ahlmad of this Court has also been recorded in order to ascertain point No.(1), (2) & (4) as formulated by Hon'ble Punjab and Haryana High Court.

It is further submitted that statement of Investigating Officer SI Chiman Lal No.278/BTI, PP Kotshamir, PS Sadar, Bathinda has also been recorded in order to ascertain point No.(1), (2), (4) & (5) as formulated by Hon'ble Punjab &

Haryana High Court.

As per the report of the Ahlmad of this Court and the report of the Investigating Officer in the present FIR No.98 dated 07.07.2019 under Section 420 of IPC, PS Sadar, Bathinda, only accused Naresh Kumar is accused and he has not been declared proclaimed offender in the present case. The final report under Section 173 Cr.P.C. has not been filed yet by the police. Accordingly, the report of the trial Court on points No.1 to 5 as directed by the Hon'ble Punjab & Haryana High Court alongwith statements of parties, statement of Investigating Officer SI Chiman Lal & statement of Ahlmad Amit Kumar is submitted for your kind information and necessary action. The delay caused in the present case for the report which was caused due to the lapse of the official of this court be condoned and permission be given to the undersigned/Trial Court to submit the report at this stage. The inconvenience caused due to said delay is hereby regretted. The report of the trial Court is hereby submitted for your kind perusal. The next date before the Hon'ble High Court is 02.02.2021.

Thanking you,

*Submitted by
Sd/- (Harjot Singh Gill), PCS
Judicial Magistrate Ist Class,
Bathinda”*

A perusal of the said report would show that after recording the statements of the parties, Judicial Magistrate Ist Class, Bathinda has found that the compromise is genuine, voluntarily, without any coercion or undue influence. As per the said report, it has also been stated that there is some delay in presenting the report and condonation with respect to the said aspect is being sought. As far as the delay in submission of the report is

concerned, the same is condoned and the report is taken on record.

Learned counsel for the petitioner has submitted that the petitioner 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 No.2 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 two parties. He has further submitted that respondent No.2 has no objection in case the FIR in question and all the subsequent proceedings arising therefrom are quashed qua the petitioner.

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 petitioner 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.98 dated 07.07.2019 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Sadar Bathinda, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

28.09.2021
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No