

CRM-M-46073-2021

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

(249)

CRM-M-46073-2021.
Date of Decision:-16.12.2021.

Sukhdev Singh @ Sukha and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vinod K. Kaushal, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Manoj Sharma, Advocate for
Mr. Raman Kumar, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.16 dated 09.02.2021, registered under Sections 323, 379 of IPC at Police Station Model Town, District Hoshiarpur (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 11.10.2021 (Annexure P-2).

On 02.11.2021, 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.16 dated 09.02.2021 registered under Sections 323, 379 of the Indian Penal Code, 1860 at Police

CRM-M-46073-2021

Station Model Town, District Hoshiarpur, (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 11.10.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 16.12.2021.

On asking of the Court, Mr. N.K. Banka, DAG, Punjab, appears and accepts notice on behalf of the respondent-State and Mr. Raman Kumar, Advocate appears on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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.”*

CRM-M-46073-2021

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

“From the statements of the complainant, the accused & Investigating Officer the report of the undersigned is as under:-

1. That as per statements suffered by the complainant as well as Investigating Officer ASI Onkar Singh No.207, HPR, PS Model Town, Hoshiarpur in the present FIR, only two persons namely Sukhdev Singh@ Sukha and Varinder Singh @ Ajay Kumar have been arrayed as accused.

2. That as per the statement of Investigating Officer ASI Onkar Singh No.207, HPR, PS. Model Town, Hoshiarpur, no accused is Proclaimed Offender in the present case.

3. That in view of the above statements of the complainant and due accused, I am of the opinion that the compromise is genuine, voluntary and without any coercion or undue influence.

4. That as per the statement of Investigating Officer ASI Onkar Singh No.207, HPR, PS Model Town, Hoshiarpur, no other proceeding is pending against the accused in police station Model Town, District Hoshiarpur.

5. That as per the statement of Investigating Officer ASI Onkar Singh No.207, HPR, PS Model town, Hoshiarpur there is only one victim/complainant namely Des Raj in the present case.

CRM-M-46073-2021

Hence, the report is submitted please as desired.

Thanking you

Yours faithfully,

Sd/-

*Pushpa Rani
Chief Judicial Magistrate,
Hoshiarpur
UID No.PB-0279.”*

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 and no other case is pending against the petitioners.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were 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 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.

CRM-M-46073-2021

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 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 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

CRM-M-46073-2021

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.16 dated 09.02.2021, registered under Sections 323, 379 of IPC at Police Station Model Town, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 16, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No