

CRM-M-49279-2021

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

(240)

CRM-M-49279-2021.
Date of Decision:-22.12.2021.

Manjit @ Golu Pandit

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amardeep Hooda, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Sarfaraj Hussain, 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.966 dated 22.10.2016, registered under Sections 323, 324 and 34 of IPC (later on added Section 307 IPC), at Police Station Hisar City, District Hisar, Haryana (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise agreement dated 17.11.2021 (Annexure P-2).

On 03.12.2021, this Court was pleased to pass the following order:-

“CRM-41247-2021

Application is allowed, as prayed for.

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Annexures P-4 to P-6 (although wrongly mentioned as Annexures P-1 to P-3 in the application), are taken on record, subject to all just exceptions.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.966 dated 22.10.2016 registered under Sections 323, 324, 34 of the Indian Penal Code, 1860 (Section 307 of IPC has been added later on) at Police Station Hisar City, District Hisar, Haryana and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for the petitioner has submitted that in the present case, Section 307 of IPC has been wrongly added and in this regard, he has referred to the evidence of Dr. Alkesh, Medical Officer, General Hospital, Narnaul (Annexure P-6). The relevant portion of his cross-examination is reproduced hereinbelow:-

“It is correct that weapon Ex.P16 is not a Sua, but a 'L' shaped key. It is correct that I did not mention that injuries were covered with clotted blood or there was fresh bleeding from the injuries. I had not mentioned that it was a sharp pointed weapon. I had not observed that any internal organ was damaged due to injuries or not. Self stated, I referred the patient to MAMC, Agroha. It is

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correct that in a blunt pointed weapon, the margins of injuries are accompanied with the lacerations.”

A perusal of the same would show that it has been admitted that it had not been mentioned in the report that internal organ was damaged due to injuries or not and that injuries were clotted blood or there was fresh bleeding from the injuries or that injury was caused by a sharp edged weapon.

Learned counsel for the petitioner has submitted that in such a situation, offence under Section 307 of IPC has not been made out. At any rate, respondent No.2 is fully fit and has compromised the matter.

Notice of motion for 22.12.2021.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Mr. Sarfraj Hussain, 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*

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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 pursuance of the said order, the report has been submitted by the Additional District & Sessions Judge, Hisar to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“The Investigating Officer ASI Om Parkash No.300/HSR has stated on SA that he is the Investigating Officer in this case and Manjeet @ Golu Pandit is only one accused in this case and he has not been declared as proclaimed offender in this case and as per his information, the compromise is genuine, voluntary and without any coercion, or undue influence. Accused Manjeet @ Golu has faced ten criminal case bearing FIR Nos.281 dated 06.06.2020, under Arms Act, P.S. Urban Estate, Hisar, FIR No.481 dated 7.06.2017, under sections 354, 323, 506 IPC, P.S. Civil Lines, Hisar, FIR No.649 dated 3.08.2015, under sections 365, 120-B IPC, P.S. Civil Lines, Hisar, FIR No.168 dated 25.03.2016, under section 386 IPC, P.S. Civil Lines, Hisar, FIR No.330 dated 10.06.2016, under Sections 323, 452, 506, 34 IPC, P.S. Civil Lines, Hisar, FIR No.770 dated 11.11.2014, under sections 323, 452, 506 IPC, P.S. Civil Lines, Hisar, FIR No.217 dated 23.05.2015, under

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section 25 of Arms Act, P.S. Civil Lines, Hisar, FIR No.435 dated 28.05.2015, under section 25 of the Arms Act, P.S. Civil Lines, Hisar, FIR No.468 dated 17.12.2013, under sections 384, 387, 506 IPC, P.S. Sadar Rohtak, FIR No.966 dated 22.10.2016, under sections 323, 324, 307 IPC, P.S. City Hisar i.e. the present FIR. Out of the above-said cases, he has been acquitted in FIR Nos.481, 649, 330, 770, 217, 435 and in the remaining above-said FIRs the trials are pending in the court. In the present FIR bearing No.966 dated 22.10.2016, under sections 323, 324, 307 IPC, P.S. City Hisar, there is only one victim/injured/complainant Sukjeet @ Bintu son of Sh.Jagdish, Caste Dhanak, resident of Gali No.8, Surya Nagar, Hisar.

The photostat copy of the Panchayati Razinama dated 17.11.2021 duly signed by both Sukjeet @ Bintu and Manjeet @ Golu and signed by the witnesses, has been placed on record.

From the above statements of the complainant, accused and the Investigating Officer, the undersigned is of the view that the compromise is genuine, voluntary and without any coercion and undue influence.

The report is submitted, please.

Sd/-

*(G.S.Wadhwa),
Dt.17.12.2021 Additional District & Sessions Judge,
Hisar."*

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

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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 the petitioner has not been declared as proclaimed offender in the present case.

A perusal of the above report would further show that it has been stated that there are other cases against the petitioner. However, the said cases would not come in the way of quashing of the present FIR, the compromise in the present case has been found to be genuine and bona fide as is apparent from the order dated 03.12.2021 in which it was noticed that the offence under Section 307 of IPC is prima facie not made out in view of the evidence of the doctor of General Hospital, Narnaul (Annexure P-6).

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 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.

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

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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 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

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*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.966 dated 22.10.2016, registered under Sections 323, 324 and 34 of IPC (later on added Section 307 IPC) at Police Station Hisar City, District Hisar, Haryana (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No