

CRM-M-39884-2019

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

(252)

CRM-M-39884-2019.
Date of Decision:-13.12.2021.

Mohit Vashisht and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aakash Bhardwaj, Advocate for the petitioners.

Mr. Anant Kataria, DAG, Haryana, for respondent No.1.

Ms. Kanika Ahuja, Advocate for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.0163 dated 25.07.2018, registered under Sections 436, 452, 506 and 34 of IPC at Police Station Panipat Sadar, District Panipat (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 24.07.2019 (Annexure P-2).

On 30.09.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“The present application has been filed for preponing the date of hearing in the main petition i.e. CRM-M-39884 of 2019, which is now fixed for 25.11.2021.

Learned counsel for the applicants-petitioners argues that a Coordinate Bench of this Court vide order dated 18.09.2019 had directed the parties to get their statements recorded before the trial Court as the parties have compromised their dispute as per the compromise deed dated 24.07.2019 (Annexure P/2). Learned counsel for the applicants-petitioners submits that keeping in view the pandemic of Covid-19 as the Courts are working in a restrictive manner, the statements of the parties could not be recorded and, therefore, another opportunity be granted to the parties to get their statements recorded before the trial Court by preponing the date of hearing in the main petition i.e. CRM-M-39884 of 2019, which is now fixed for 25.11.2021.

Keeping in view the joint request of the parties, application is allowed. Date of hearing in the main petition CRM-M-39884 of 2019 is preponed from 25.11.2021 to today.

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Keeping in view the fact that due to the pandemic of Covid-19 as the Court are working in a restrictive manner, the statements of the parties could not be recorded, another opportunity is granted to the parties to get their statements recorded before trial Court/Illaq Magistrate with regard to the compromise/settlement dated 24.07.2019 (P-2) on 26.10.2021 by moving an appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit

the report on or before the next date of hearing containing the following information: -

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a 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; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.*

The question of imposition of cost for wasting the valuable time of the police as well as the Court will be assessed and imposed at the time of the final hearing of the present petition in case, the FIR is to be quashed.

Adjourned to 03.12.2021. ”

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

“My point wise report, as directed, is as under:-

- 1) There are two accused in the present FIR namely Mohit and Anil @ Leela.*
- 2) No accused is proclaimed offender in the present case.*

- 3) *As per the above said joint statement, the compromise is genuine, voluntarily and without any coercion or undue influence.*
- 4) *The accused Anil @ Leela is not involved in any other FIR. However, apart from the present FIR, 18 other FIRs (list attached) are pending against the accused Mohit i.e. 10 FIRs with Police Station, City Sonapat, 1 FIR with Police Station, Gannaur, 1 FIR with Police Station, Mohana and 6 FIRs with Police Station, Sanoli.*
- 5) *The statement of the Investigating Officer ASI Parminder Singh (copy attached) has been recorded on oath, according to which, there were two accused namely Mohit and Anil @ Leela in the present case and that no other accused was involved in the present case and that the only complainant/victim in the present case was Krishan Mittal and that Ashu son of Ramdev and Sandeep son of Jeevan Lal had already left Panipat before the lock down due to Covid-19 Pandemic and that two other independent witnesses namely Darshan Lal son of Jawahar Lal and Krishan son of Telu Ram were present in the court that day and that apart from the present FIR, there were 18 other different FIRs against the accused Mohit i.e. 10 FIRs with Police Station, City Sonapat, 1 FIR with Police Station, Gannaur, 1 FIR with Police Station, Mohana and 6 FIRs with Police Station, Sanoli.*

Hence my report.

This for your kind information and necessary action please.”

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.

A perusal of the above report would further show that there are several other cases pending against petitioner No.1-Mohit Vashisht. However, the same would not come in the way of quashing of the present FIR on the basis of compromise as the same is found to be genuine, voluntary, bona fide and without any pressure or undue influence.

Learned counsel for the petitioners has submitted the petitioners have not been 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 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 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

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is allowed and FIR No.0163 dated 25.07.2018, registered under Sections 436, 452, 506 and 34 of IPC at Police Station Panipat Sadar, District Panipat (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 13, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No