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

CRM-10819-2022 in/and
CRM-M-568-2021 (O&M)
Date of decision : 31.03.2022

Shiv Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikas Arora, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Mohit Kumar, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-10819-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 01.08.2022 to an early date.

Learned counsel for the applicant-petitioner has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the non-applicant/State of Haryana and Mr.

Mohit Kumar, 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 01.08.2022 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 date of hearing in the main case is preponed from 01.08.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.251 dated 18.11.2012 registered under Sections 279, 338 of the Indian Penal Code, 1860 and Sections 192 and 196 of the Motor Vehicle Act, 1988 (added later on) at Police Station Pinjore, District Panchkula (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 08.03.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The matter has been taken up through video conferencing.

Notice of motion.

Mr.Ashok Kumar Sehrawat, DAG, Haryana and Mr. Mohit Kumar, Advocate, accept notice on behalf of respondent No.1 and respondent No.2, respectively.

Learned counsel for the petitioners undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482

Cr.P.C. the petitioner seeks quashing of FIR No.251, dated 18.11.2012, registered under Sections 279/338 IPC and 192/196 of the Motor Vehicle Act, 1988 (added later on), at Police Station Pinjore, district Panchkula on the strength of a written compromise dated 26.10.2020 (Annexure P-3) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 18.03.2021 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/ Trial Court adjourned to 03.05.2021.

Sd/-[DEEPAK SIBAL]

08.03.2021

JUDGE ”

In pursuance of the abovesaid order, a report has been submitted by the Sub Divisional Judicial Magistrate, Kalka. The relevant portion of the said report is reproduced hereinbelow:-

“REPORT:

Statements of the parties i.e., complainant-Sitender and accused-Shiv Kumar in case FIR No. 251 dated 18.11.2012, under Sections 279, 338 of IPC and Section 192 & 196 of

Motor Vehcile Act, Police Station, Pinjore, District Panchkula have been recorded regarding genuineness of the compromise and whether any of the accused has been declared proclaimed offender/person. There is one complainant and one accused-Shiv Kumar in the present case who are parties to Compromise Deed Ex. C1. That accused Shiv Kumar was proclaimed person in the present case vide order dated 12.07.2016. However, today i.e. 18.03.2021 he surrendered before the court and was granted bail. As per affidavit Ex. C2 no other criminal case is pending against him.

Perusal of the statements of the parties and Compromise Deeds Ex. C1 show that they have amicably settled the matter after arriving at compromise and settlement, voluntarily and without any fear or coercion or pressure from any side. The compromise seems to be genuine.

The original statements of the parties along with affidavits and copy of Aadhar Card are being sent with the present report for your kind perusal.

Submitted please.

SD/- (Diksha Dass Ranga)

Sub Divisional Judicial Magistrate,

Kalka, 18.03.2021

UID No. HR-0311”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. 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.

Learned counsel for the petitioner has submitted that there are no other cases pending against the petitioner. 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.

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.

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, reported as **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**”, reported as **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, the petition is allowed and FIR No.251 dated 18.11.2012 registered under Sections 279, 338 of the Indian Penal Code, 1860 and Sections 192 and 196 of the Motor Vehicle Act, 1988 (added later on) at Police Station Pinjore, District Panchkula (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

31.03.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No