

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

CRM-M-1624-2021

Date of decision: 29.08.2022

Harish Kumar and anotherPetitioners

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. G.S. Sandhu, Advocate, for the petitioners.

Mr. Manipal Atwal, DAG, Punjab.

Mr. Dinesh Maurya, Advocate, for respondent No. 2.

AMAN CHAUDHARY, J. (ORAL)

Present petition has been filed for quashing of FIR No. 122 dated 08.06.2020 under Sections 323, 341, 506, 34 IPC registered at Police Station Mahilpur, District Hoshiarpur, and all other consequential proceedings arising therefrom on the basis of the compromise dated 25.06.2020 (Annexure P-2).

On 13.01.2021, this Court had passed the following order:-

“The case is taken up through video conferencing on account of COVID 2019.

By filing this petition, quashing of FIR No. 122 dated 8.6.2020 registered under Sections 323, 341, 506, 34 IPC at Police Station Mahilpur, District Hoshiarpur and other consequent proceedings arising therefrom qua petitioners has been sought on the basis of compromise.

Notice of motion.

Mr. R.S. Khaira, AAG Punjab accepts notice on behalf of respondent No. 1 State.

Parties may appear before learned Illaqa Magistrate/Duty Magistrate concerned on 9.2.2021 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said court. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report:

- i) regarding genuineness and voluntary nature of compromise;
- ii) whether all accused/petitioners are appearing before the Court or are on bail; and
- iii) whether any other proceeding is pending against the accused/ petitioners.

Adjourned to 24.3.2021.”

Pursuant to the aforesaid order, report dated 01.03.2021 has been received from the Judicial Magistrate First Class, Garhshankar. The relevant paragraph of the said report is as under:-

“ASI Gurmail Singh was summoned and vide his separate statement has stated that the total number of two accused were arrayed in the FIR No. 122 dated 08.06.2020, under Sections 323, 341, 506, 34 IPC at P.S. Mahilpur, no P.O. Proceedings are pending or initiated against any of above said accused. No accused has yet joined investigation and the accused are not involved in any other FIR/case.

So, as per the statement suffered by the all accused and complainant they have compromised the matter, voluntarily, without any coercion or undue influence and compromise is genuine one. The point wise report is given here under as sought by Honorable High Court:

1. No accused has yet joined investigation.
2. No P.O. Proceedings is pending or initiated against any of above said accused.

3. The accused who are present in the court today are not involved in any other FIR/case.

Hence the present report is presented for the kind perusal of your good self.

Submitted please.

Yours faithfully,

(Navreet Kaur), PCS

Judicial Magistrate First Class,

Garhshankar/18.02.2021.

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are two accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any fear, threat or coercion. It is also stated in the report that none of the accused is declared as proclaimed offender and no other case has been registered against the accused persons except the FIR in question.

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the 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 is of the view 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 view 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 the above, the petition is allowed and FIR No. 122 dated 08.06.2020, under Sections 323, 341, 506, 34 IPC,

registered at Police Station Mahilpur, District Hoshiarpur, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

29.08.2022

preeti

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No