

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(280-1)

CRM-M-4787-2021

Date of decision: - 29.08.2022

Ritesh Dilipkumar Shah

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Parunjeet Singh, Advocate, for the petitioner.

Mr. Vikas Arora, AAG, Punjab.

Mr. Jagdeep Pal Singh, Advocate, for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.218 dated 26.07.2018, registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 and Sections 10 and 24 of the Immigration Act, 1983, at Police Station Division No.8, Ludhiana, and all the consequential proceedings arising therefrom on the basis of compromise.

On 24.02.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“By filing this petition, quashing of FIR No.218 dated 26.07.2018, under Sections 406, 420 and 120-B of IPC and Sections 10 and 24 of the Immigration Act, 1983, registered at Police Station Division No.8, Ludhiana (P-1) and all other consequent proceedings arising therefrom has been sought on the basis of compromise.

Notice of motion.

Mr. R.S. Khaira, AAG, Punjab and Mr. Jagdeep Pal Singh, Advocate accepts notice on behalf of respondent No.1 and 2 respectively.

Parties may appear before concerned trial Court/Duty Magistrate

on 19.03.2021 or on any other date convenient to the said Court and get their statements recorded with regard to the 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 the same to this Court before the next date of hearing along with his report:

- i) regarding genuineness and voluntary nature of the compromise;*
- ii) whether all the 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 19.05.2021.

(HARINDER SINGH SIDHU)
JUDGE

24.02.2021”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Ludhiana, to the Registrar General this Court. The relevant part of the report is reproduced hereinbelow:-

“In view of the aforesaid order of Hon'ble Punjab and Haryana High Court, statement of the concerned parties i.e. Sham Sunder Gupta (Attorney of complainant), and Ritesh Dilipkumar Shah (accused) have been recorded. True copies of the statements so recorded, are enclosed with.

After going through the statements of the parties i.e. petitioner and Respondent, this court is of the opinion that the statements are not the result of any pressure or coercion in any manner between the parties. The compromise is a valid compromise. It is further submitted that as per the report under section 173 Cr.P.C. there are four accused namely Rohit Bawa, Bawesh Giri, Veerpal Kaur and Kamaljit Singh who have been kept in column No.2 while there are three accused namely Jignesh Giri, Ritesh Dalip Kumar Shah and Sukhjinder Kaur against whom challan has been presented in the court. None of the accused is Proclaimed Offender in this case. Further, as per the statement of Investigating Officer SI Manjit Singh there is only one complainant namely Neeraj Gupta in the present FIR and no other FIR is pending

against the accused persons namely Ritesh Dilip Giri Shah at police station Division No.8, Ludhiana. It is further submitted that in the present case challan has presented under section 420, 120-B IPC and 24 Immigration Act.

Submitted Please,

Yours faithfully

(Puneet Mohinia)

Judicial Magistrate Ist Class,

Ludhiana.8-04-2021

UID No.PB-0497"

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 there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioner as well as learned counsel appearing for respondent No.2 have submitted that the present petition has not been filed by all the accused persons and has been filed by one accused only.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioners/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2015 titled as 'Dalip Mandal and another Vs. State of U.T., Chandigarh and others', in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 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 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", 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 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.218 dated 26.07.2018, registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 and Sections 10 and 24 of the Immigration Act, 1983, at Police Station Division No.8, Ludhiana and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua petitioner.

August 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No