

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-4536-2022

Date of decision : 21.07.2022

Neeraj and others

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Mohit Rathee, Advocate
for the petitioners.

Mr.Gaurav G.S. Rai, DAG, Haryana.

Mr.Amit Chaudhary, Advocate
for the respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.0614 dated 29.08.2021 registered under Sections 34, 307, 506 IPC and Sections 25 and 54 of the Arms Act (Section 307 IPC deleted and Section 285 added later on) at Police Station Kharkhoda, District Sonipat and all other consequential proceedings arising therefrom on the basis of compromise.

On 03.02.2022, a coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conferencing.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between them and respondent no. 2, of FIR no. 0614 dated 29.08.2021, registered at Police Station Kharkhoda, District Sonipat, for the alleged commission of offences punishable under the provisions of Sections 34/307/506 of

the IPC and Sections 25/54 of the Arms Act, 1959, (with Section 307 of the IPC having been deleted and Section 285 of the IPC having been added later), as also all other subsequent proceedings arising therefrom . A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. Neeraj Poswal, A.A.G., Haryana, accepts notice at the asking of the court on behalf of respondent no.1, with Mr. Shakti Singh, Advocate, appearing and accepting notice on behalf of respondent no.2. He will file a power of attorney duly executed by the aforesaid respondents in his favour, well before the next date of hearing.

A copy of the petition be emailed to both learned counsel by counsel for the petitioners today itself.

Adjourned to 12.05.2022. In the meanwhile, the petitioners, as also respondent no. 2, would appear before the learned trial court/Ilqa Magistrate upto 26.04.2022 to record their statements. The trial court/Ilqa Magistrate would satisfy itself/herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

There also being an offence punishable under the provisions of the Arms Act allegedly committed, as per the FIR itself, though it is a case of shown to be no injury to anyone, a gazetted officer is directed to file a reply to the petition, giving therein the status of investigation carried out so far and also stating therein as to whether there are any other criminal cases of like nature or otherwise, registered against any of the petitioners.

February 03, 2022

**(AMOL RATTAN SINGH)
JUDGE”**

In pursuance to the said order, a report has been submitted by

the Sub Divisional Judicial Magistrate, Kharkhoda. The relevant portion of

the said report is reproduced hereinbelow:-

“2 In compliance of Hon'ble High Court's order dated 03.02.2022, applicants/accused Neeraj s/o Jai Pal r/o village Rohna, Kharkhoda, Sonapat, Parminder s/o Jai Singh and Parveen s/o Surrender, both r/o village Jhangirpur, Jhajjar and complainant Sunil Kumar s/o Satbir r/o village Rohna, Kharkhoda, Sonapat appeared before the Court. Their counsel namely Sh. Amit Kumar and Sh. Ram Bhagat Dahiya, Advocates are also present before the Court. They have duly identified their parties. Separate statement of complainant Sunil Kumar s/o Satbir r/o village Rohna, Kharkhoda, Sonapat was recorded wherein he stated that he has entered into a compromise in the present matter with the accused out of his own free will and without any pressure, fear, coercion and greed. He has also been questioned about the compromise to which he replied that he is not under any kind of pressure and has compromised the matter with the complainant voluntarily. Separate statements of accused namely Neeraj s/o Jai Pal, Parminder s/o Jai Singh and Parveen s/o Surrender were recorded wherein they stated they have entered into a compromise with the complainant- Sunil Kumar s/o Satbir out of their own free will or without any undue influence, fear, coercion or greed.

3. Statement of the Investigating Officer ASI Samay Singh has also been recorded on 12.04.2022 vide which he stated that in the present case, there is no any other accused except accused namely Neeraj, Parminder and Parveen. A case bearing FIR No. 41 dated 26.04.2013, PS Rohdai, Rewari, u/s 323/325/34 IPC was pending against accused Parminder but now he has been acquitted in that case. Further, he got recorded his statement on 21.04.2022 wherein he stated that in the present case except accused Neeraj, Parminder and Parveen, no other person has been arrayed as the accused and except complainant Sunil s/o Satbir, no other person is required to compromise and the statement of Sunil s/o Satbir is sufficient. From the statements of parties recorded as well as from the oral enquiry being made by the Court from the parties, it appears that they voluntarily entered into compromise without any kind of pressure, fear, coercion and greed.

Submitted please.

*(Dx Renu Solkhe)
Sub Divisional Judicial Magistrate
Kharkhoda, (UID No.HR-0361)*

21.04.2022 ”

A perusal of the report would show that specific query raised by a coordinate Bench of this Court on 03.02.2022 have been answered in the said report inasmuch as it has been stated in the report that the compromise is genuine and bonafide and there are only three accused in the present case and there is only one complainant-victim and no other person is required to sign the compromise. A further perusal of the above said report would show that the petitioners and respondent no.2 have appeared and have suffered statements with respect to the compromise.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offenders in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

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 petitioners 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.”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR no.0614 dated 29.08.2021 registered under Sections 34, 307, 506 IPC and Sections 25 and 54 of the Arms Act (Section 307 IPC deleted and Section 285 added later on) at Police Station Kharkhoda, District Sonipat and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 21, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**