

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

290

CRM-M-8062-2022
Decided on : 19.07.2022

Raj Kumar and another

. . . Petitioners

Versus

Union Territory Chandigarh and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: M. Rohit Lubana, Advocate
for the petitioners.

Mr. Anil Kumar Lamdharia, Addl. PP, UT Chandigarh.

Mr. Abhishek Lubana, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 23 dated 26.02.2019 under Sections 323, 324, 341, 506 and 34 of the Indian Penal Code, 1860 (Sections 325 and 326 IPC added later on) registered at Police Station Sector 19, District Chandigarh (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 06.07.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.23 dated 26.02.2019 registered under Sections 323, 324, 341, 506, 34 of the Indian Penal Code, 1860 (Sections 325 and 326 of IPC have been added later on) at Police Station Sector-19, District Chandigarh (Annexure P-1)

and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that in the present case, although there were four accused persons but however, only two accused persons have filed the present petition as compromise has been effected only with them and has thus, relied upon judgment passed by the Hon'ble Supreme Court in Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012(12) SCC 401 to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.

List on 19.07.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is 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?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR."*

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

“The point-wise report is as follows:-

1.	<i>Number of persons arrayed as accused</i>	<i>Four persons arrayed as accused, out of which tow accused namely Dharmender and Gyan have not been arrested till date as they could not be traced.</i>
2.	<i>Whether any accused is proclaimed offender</i>	<i>No. As per the statement of Investigating Officer, accused Pawan Kumar and Raj Kumar @ Babu have not been declared as Proclaimed Offenders/persons.</i>
3.	<i>Whether the compromise is genuine, voluntary and without any coercion or undue influence</i>	<i>Yes, the compromise so arrived at between the parties is genuine, voluntarily and without any coercion or undue influence.</i>
4.	<i>Whether the accused persons are involved in any other case or not</i>	<i>As per the statement of Investigating Officer, no other investigation is pending against the accused persons namely Pawan Kumar and Raj Kumar @ Babu</i>
5.	<i>How many victims/complainants are there in the FIR</i>	<i>As per the statement of Investigating Officer, there is only one complainant/victim namely Satish Kumar s/o Sh. Onkar Nath.</i>

The requisite report is submitted accordingly alongwith the copies of statements of parties and Investigating Officer and copies of their identity proof for the kind perusal of Your Good-self.

Submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioners 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. As per the said report, it has been observed that the petitioners were never declared as proclaimed offenders in the present case.

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 bring 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 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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 23 dated 26.02.2019 under Sections 323, 324, 341, 506 and 34 of the Indian Penal Code, 1860 (Sections 325 and 326 IPC added later on) registered at Police Station Sector 19, District Chandigarh (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

19.07.2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No