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

CRM-2105-2022 in/and
CRM-M-5827-2020 (O&M)
Date of decision : 04.02.2022

Hari Narayan and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ramneek Vasudeva, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Gaurav Soni, Advocate for respondent Nos.2 to 4.

VIKAS BAHL, J. (ORAL)

CRM-2105-2022

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 04.07.2022 to an early date.

Learned counsel for the applicant-petitioners 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. Sarabjit S. Cheema, AAG, Punjab,

appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Gaurav Soni, Advocate appears on behalf of non-applicant/respondent Nos.2 to 4 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 04.07.2022 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 04.07.2022 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.88 dated 19.09.2019 registered under Sections 323, 341, 506, 148, 149 of the Indian Penal Code, 1860 (Section 307 of IPC has been added subsequently) at Police Station Sadar Rupnagar, District Rupnagar (Punjab) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 10.02.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this petition is for quashing of the FIR in question on the basis of the compromise entered into between the parties.

Notice of motion.

At this stage, Mr. Gaurav Soni, Advocate puts in appearance on behalf of respondent Nos. 2 to 4 and files his Vakalatnama. He admits to the factum of compromise

entered into between the parties.

List again on 07.05.2020.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaq Magistrate 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 in FIR,*
- 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.*

10.02.2020

Sd/-(ARVIND SINGH SANGWAN)

JUDGE”

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

“It is further submitted that record was perused and it reveals that there are total five (5) persons arrayed as accused in the present FIR. Accused Radhe Sham, Uma Shankar, Hari Narain, Suman and Seema Devi appeared before the court and made the statement regarding compromise. It is further submitted that none of the accused is proclaimed offender. It is further submitted that no other FIR is registered against accused persons.

It is further submitted that the name of the complainant is Geeta Devi. The names of the injured/aggrieved are Rahul Kashyap, Geeta Devi and Desh Raj and they all appeared before the court and made their joint statement in support of the compromise. It is further submitted that at the time of recording the statement regarding compromise the case was fixed for awaiting challan. Further, from the perusal of the statements of the parties it appears that the compromised effected between the parties is genuine, voluntary and without any coercion or undue influence.

Submitted please.

*Yours faithfully,
Sd/- Chinu Sharma,
Judicial Magistrate I" Class
Rupnagar"*

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 petitioners and respondent Nos.2 to 4 have jointly submitted that in the present case, there was no intention of any person to have caused any injuries which would fall within the meaning of Section 307 of IPC. Reference has been made to DDR dated 19.09.2019 (Annexure P-2), as per which, injured Desh Raj who had suffered injury on

the eye, on the basis of which, Section 307 of IPC has been added, had also picked up bricks and the complainant in the DDR i.e. Radhey Shyam (petitioner No.3) had also picked up bricks and both sides had thrown bricks at each other and thereafter, Desh Raj fell face down upon pieces of bricks. It has further been jointly submitted that injury on the eye had been caused on account of said Desh Raj falling on the pieces of bricks. It is argued that it is only on account of the said injury in the eye that Section 307 of IPC has been added whereas, the other injuries are simple in nature. It is further submitted that from the said facts, it is apparent that there was no intention to cause murder/death of said Desh Raj. It is contended that Desh Raj is now keeping good health. It is further contended that the present case is a case of version and cross-version in which, several persons got involved on account of a fight that broke out and started throwing brick bats at each other and none were armed with any weapon, which further fortifies the fact that nobody had the intention to kill/murder. It has been stated that at any rate, injury to the eye would not possibly attract the offence under Section 307 of IPC. It is, although, submitted that the petitioners as well as respondent Nos.2 to 4 belong to the same Village i.e. Ghanauli and are in fact, living in the same neighbourhood and the compromise between the parties will help in bringing peace and harmony between the families of the parties which are involved in the dispute and will also help in finally settling the matter. It has also been submitted that with respect to the cross-version to the FIR which has been recorded in the present case i.e. DDR No.15 dated 19.09.2019, compromise has already been effected between the parties and the same has already been compounded.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offender in the present case and are not accused in any other FIR. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for respondent Nos.2 to 4 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 trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant-party. 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.88 dated 19.09.2019 registered under Sections 323, 341, 506, 148, 149 of the Indian Penal Code, 1860 (Section 307 of IPC has been added subsequently) at Police Station Sadar Rupnagar, District Rupnagar (Punjab) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

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

04.02.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No