

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CRM-M-6039-2019
Decided on : 30.03.2022

Pawan Kumar and others

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Munish Kumar Garg, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Paras Sharma, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 795 dated 02.11.2011 under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 registered at Police Station Civil Lines Karnal, District Karnal (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 11.02.2019, a Coordinate Bench of this Court was pleased to pass the following order:-

“This petition has been filed for quashing of FIR No.795 dated 02.11.2011 on the basis of compromise.

Notice of motion.

Mr. S.P. Singh, DAG, Haryana, accepts notice on behalf of the State of Haryana. Let two copies of the petition be supplied to him during the course of the day.

Mr. Paras Sharma, Advocate, puts in appearance and accepts notice on behalf of respondents No.2 & 3.

The parties are directed to appear before the trial Court/Illaq Magistrate on 28.03.2019 for getting their statements recorded and thereafter, the latter shall transmit its report to this Court regarding the genuineness of the compromise between the parties as well before the next date of hearing.

Adjourned to 21.05.2019.

*Sd/-
(SUDHIR MITTAL)
JUDGE”*
February 11, 2019

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

“I have the honor to submit that in compliance of order dated 11.02.2019 passed by Lordship, Hon'ble Justice Sudhir Mittal Judge, Hon'ble Punjab and Haryana High Court, Chandigarh the undersigned has recorded the joint statement of accused Ram Mehar, Pawan Kumar, Roshan Lal, Sandeep Kumar, Kashmir Chand and Ratni Devi and separate statements of complainants Rajiv Gupta and Manju Gupta after being satisfied that the above mentioned persons were deposing voluntarily and out of their free will regarding the compromise. Accused namely Ram Mehar, Pawan Kumar, Roshan Lal, Sandeep Kumar, Kashmir Chand and Ratni Devi appeared before the Court and voluntarily made a joint statement to the effect that the matter has been compromised with the complainant. They have stated that now there is no dispute between

them as by mutual understanding, a compromise has been effected between them voluntarily and without any pressure and they prayed for quashing of FIR. Complainants Rajiv Gupta and Manju Gupta also appeared in person and got their separate statements recorded to the effect that they have compromised the matter with the accused persons. They have stated that they have compromised the matter voluntarily and without any pressure and have no objection, if the criminal proceedings pending against the accused are quashed by Hon'ble Punjab and Haryana High Court. It is further submitted that accused Rishal Singh, Ishwar and Neeraj have already died and proceedings qua them have been dropped whereas accused Subhash has already been declared Proclaimed Person vide order dated 12.08.2014. After recording the statements of the parties, I am of the view that the compromise between the parties is genuine, made voluntarily and out of their free will and without any pressure. Report is submitted please and oblige. ”

A perusal of the said report would show that 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 have submitted that in the present case, there are as many as 11 accused, out of whom 3 accused have been died and the present petition has been filed by 6

persons with whom the compromise has been effected and the present case is a case of partial compromise. In support of the same, he 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 petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in *CRM-M-16318-2018* titled as *Dalip Mandal and another Vs. State of U.T., Chandigarh and others* and *CRM-M-16841-2014* titled as *Balvinder Kumar @ Eidhu Vs. State of Punjab and another* in which cases, 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 respondents No. 2 and 3 has submitted that he has no objection in case the entire FIR against all the accused persons is quashed as they do not want any further proceedings in present criminal litigation and has 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 and also the statements made by learned counsel for respondents No. 2 and 3, the petition is allowed and FIR No. 795 dated 02.11.2011 under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 registered at Police Station Civil Lines Karnal, District Karnal (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua all the accused persons.

(VIKAS BAHL)
JUDGE

March 30th, 2022
Mehak

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