

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(231)

CRM-M-8203-2021

Date of decision: - 07.02.2022

Raj Kumar @ Kala and others

....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Devender Arya, Advocate,
for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Aman Sharma, Advocate
for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.245 dated 27.08.2018, under Sections 148, 149, 307, 323 and 506 of IPC and Section 25 of the Arms Act, 1959, registered at Police Station City Chandimandir, District Panchkula (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of affidavit/compromise dated 21.09.2018 (Annexure P-2).

On 17.12.2021, this Court was pleased to pass the following order:-

“CRM-42621-2021

This is an application under Section 482 of Cr.P.C. for preponing the date of hearing and permitting the parties to record their statements.

Learned counsel for the applicants/petitioners and the complainant respondent No.2 have jointly submitted that in the present case, prayer has been made for quashing of the FIR on the basis of compromise and the said case is listed on 17.05.2022. It is submitted that in the present case, the offence under Section 307 of IPC is not attracted, inasmuch as there is no opinion of any doctor declaring any injury to be dangerous to life and in fact, the present case is a case of no injury and the offence under Section 307 of IPC was added at the time of registration of the FIR itself.

Learned State counsel has submitted that he has no objection in case the present application is allowed.

Keeping in view the above facts and circumstances, the present application is allowed and the main case is pre-poned from 17.05.2022 to today and the same is taken up on Board today itself.

CRM-M-8203-2021

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Adjourned to 07.02.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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, the report has been submitted by the Additional District & Sessions Judge, Panchkula to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“The point wise observations of this Court are as below:

- (1) *Six accused persons have been arraigned in present case and they have appeared before the Court and have made joint statement regarding compromise with complainant Chanderpall. Injured Rohit son of Mohan Lal has also appeared before this Court and has made separate statement with regard to compromise with the accused persons.*
- (2) *No accused is proclaimed offender in this case. In this regard, ASI Jagdish Kumar/Investigating officer made statement that no accused is declared proclaimed offender/absconder in the instant case and no other case is pending against the accused persons involved in this case.*
- (3) *The complainant, injured and the accused have stated about validity of compromise between them; instant matter has been amicably settled between them by virtue of compromise deed Annexure A-1 and compromise was effected with their free consent and without any pressure and coercion and is genuine as it is not result any undue influence or pressure in any manner. Accused have also tendered their affidavits Annexure A4, Annexure A6, Annexure A8, Annexure A10. Annexure A12 and Annexure A14 and copies of their Aadhar cards Annexure A5, Annexure A7, Annexure A9, Annexure All, Annexure A13 and Annexure A15.*

Complainant Chanderpall @ Gopal Rana and injured Rohit Singh have appeared before the Court and made separate statements in support of compromise. They tendered compromise deed Annexure A-1. They filed their affidavits Annexure A2 and Annexure B1 and

their Aadhar cards Annexure A3 and Annexure B2 respectively with regard to compromise.

After going through their statements, affidavits and compromise deed, this Court is of considered view that compromise is genuine, voluntary and out of free will of the parties.

(4) With regard to involvement of accused persons in any other FIR or not, it is submitted that all accused made statement before the Court that they are not involved in any other criminal case nor any other criminal case is pending nor any other criminal case decided against them nor they declared proclaimed offender or proclaimed person. Investigating officer also submitted his report in this regard and stated that none of accused is declared proclaimed offender or proclaimed person.

(5) It is submitted by ASI Jagdish Kumar/Investigating officer by making separate statement that in this case, Chander Pal @ Gopal Rana is the complainant and Rohit son of Mohan Singh is injured/victim, who sustained injuries with the complainant.

Detailed report is being submitted for kind perusal of your goodself and information, please.

(Hukam Singh)

17.01.2022

Additional Sessions Judge,

Panchkula

UID No.-HR0155”

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, voluntary and out of free will.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared

proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 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 feel that the same was 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.245 dated 27.08.2018, under Sections 148, 149, 307, 323 and 506 of IPC and Section 25 of the Arms Act, 1959, registered at Police Station City Chandimandir, District Panchkula (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

February 07, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No