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

CRM-M-7437-2020

Date of decision : 16.08.2022

Sandeep Ghosh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Pradeep Sharma, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Salman Ahmed, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.175 dated 31.08.2016 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Kapurthala City, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 20.02.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Ld. counsel for the petitioner refers to Annexure P-2, and states that the matter has been amicably settled between the parties.

Notice of motion for 13.05.2020.

At this stage, Ms. Sunita Gupta, Advocate for Mr. Mohammad Arshad, Advocate puts in appearance on behalf of respondent No.2 by filing Vakalatnama of Mr. Mohammad Arshad, Advocate, today in the Court; Be kept on the record.

In this view of the matter, the parties shall appear before the trial Court/Illaq Magistrate on the date fixed, i.e., 27.03.2020 for getting their statements recorded with regard to the compromise arrived at between them. Ld. trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

Sd/- (SUDIP AHLUWALIA)

JUDGE

February 20, 2020”

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

“6) So in this way, on the basis of the statements made by both the parties it has become crystal clear that:

a) There are six accused namely Manish Kalrupia, Manjinder Singh, Sarwan Kumar, Akhil Tandon, Sandeep Ghosh and Deepak arrayed in FIR.

b) Accused Deepak was declared proclaimed offender on 04.06.2019.

c) The compromise is genuine, voluntary and without any coercion or undue influence.

The attested copy of recorded statements by the parties along with copy of their respective I.D. proofs are enclosed herewith.

This is for your kind information and perusal, please.

Encls: As above.

Yours Sincerely

Sd/- (Monika Lamba)

Chief Judicial Magistrate,

Kapurthala”

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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and there are no other cases pending against the petitioner. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for the petitioner has submitted that in the present case, there are six accused persons and only one accused person i.e. the present petitioner has filed the present petition and thus, the present case is a case of partial compromise and has 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.

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 petitioner 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**”, 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.175 dated 31.08.2016 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Kapurthala City, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

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

16.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No