

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(261)

CRM-M-10151-2022 (O&M)

Date of decision: - 30.03.2022

Hakim and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Navmohit Singh, Advocate, for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. Ashutosh Kaushik, Advocate, for respondents No.2 & 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.186 dated 11.05.2017 registered under Sections 147, 149, 323, 506 of the Indian Penal Code, 1860 at Police Station Faridabad NIT, District Faridabad (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 09.03.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.186 dated 11.05.2017 registered under Sections 147, 149, 323, 506 of the Indian Penal Code, 1860 at Police Station Faridabad NIT, District Faridabad (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the

persons concerned are party to the compromise.

Notice of motion for 30.03.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana appears and accepts notice on behalf of the respondent-State and Mr. Ashutosh Kaushik, Advocate appears on behalf of respondent Nos.2 and 3.

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 Judicial Magistrate 1st Class, Faridabad, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Respected Sir,

The undersigned respectfully submits that in pursuance of the order passed by the Hon'ble High Court dated 09.03.2022 , the pointwise report is as under: -

- i) Number of persons arrayed as accused?*

Report: As per the statement of IO SI Satyawar, six persons namely Rakesh, Hakam, Suraj, Neelam, Kamlesh and Raju have been arrayed as accused.

- ii) Whether any accused is proclaimed offender?*

Report: As per the statement of IO, none of the accused have been

declared proclaimed offender in this case/FIR.

iii) *Whether the compromise is genuine, voluntary and without any coercion or undue influence?*

Report: In the considered opinion of the undersigned, the compromise so effected is for the amicable settlement of the dispute and was effected without any external pressure, coercion or force and is a valid compromise.

iv) *Whether the accused persons are involved in any other FIR or not: -*

Report: As per statement of IO, the accused persons are not involved in any other FIR.

v) *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.*

Report: In the present case, as per the report of IO SI Satyawar, there is only one complainant/victim namely Shaweta @ Nisha in this FIR.

Original statements of the parties Dt. 22.03.2022 as well as statement of IO are enclosed herewith for kind perusal of the Hon'ble High Court.

The requisite report is submitted herewith for information and necessary action.

Thanking you,

Encl as above.

Yours Sincerely,

(Sumit Turkiya)

Judicial Magistrate, 1st Class,

Faridabad / UID No.HR-0470.

Dated 22.03.2022."

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, without any external

pressure, coercion or force.

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 respondents No.2 and 3 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 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, this petition is allowed and FIR No.186 dated 11.05.2017 registered under Sections 147, 149, 323, 506 of the Indian Penal Code, 1860 at Police Station Faridabad NIT, District Faridabad (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 30, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No