

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.258

CRM-M-13788-2021

Date of Decision: August 23, 2022

Pradeep Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sukhbir Maandi, Advocate for the petitioner.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Kuljeet Singh Bal, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.377, dated 19.10.2020, under Sections 406 and 420 of the Indian Penal Code, registered at Police Station Chandimandir, District Panchkula, and all other consequential proceedings arising therefrom on the basis of the compromise dated 19.03.2021 (Annexure P-2).

On 26.03.2021, this Court had passed the following order:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.377 dated 19.10.2020, registered under Sections 406, 420 IPC, 1860 at Police Station Chandimandir, District Panchkula, along with all consequential proceedings emanating therefrom, on the basis of compromise, Annexure P/2 dated 19.03.2021, as well as the decision of Hon’ble the Full Bench of this Court in Kulwinder Singh Versus State of Punjab 2007(3)

RCR (Criminal) 1052.

Notice of motion.

Mr. Vivek Chauhan, Additional Advocate General, Haryana, accepts notice on behalf of respondent No. 1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P/2 dated 19.03.2021 as well as the judgment cited by learned counsel for the petitioners.

Ms. Prabha Sharma, Advocate learned counsel accepts notice and puts in appearance on behalf of respondent No.2 and states that she has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise, Annexure P/2 dated 19.03.2021 as well as the judgment cited by learned counsel for the petitioners.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned IllaqMagistrate/ Duty Magistrate concerned for recording of their statements in terms of compromise Annexure P/2 dated 19.03.2021 on 20.04.2021, or any other date thereafter, convenient to the learned Illaq Magistrate/ Duty Magistrate concerned.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 18.05.2021.

Reply, if any, be filed in the meantime.”

Pursuant to the aforesaid order, report dated 13.05.2021 has been received from the Additional chief Judicial Magistrate, Panchkula stating that the statement of the complainant has been recorded in which he has admitted the factum of the compromise and stated that he has no objection in case the FIR in question is quashed. However, the statement

of the accused-petitioner could not be recorded as he was COVID Positive. On 18.05.2022, learned counsel for the petitioner seeks another opportunity to get the statement of the petitioner recorded before the trial Court/Illaqa Magistrate, in terms of the order dated 26.03.2021. Pursuant to that order, another report dated 25.07.2022 has been received from the learned Additional Chief Judicial Magistrate, Panchkula. The relevant part of the said report is as under:-

“i) Regarding genuineness & voluntary nature of compromise.

** The compromise between the parties appears to be genuine, voluntary and without any coercion and undue influence. Statement of complainant as well accused was recorded wherein they categorically affirmed the fact that they have compromised the dispute amicably with free will and without any coercion and undue influence. Identity of the parties was duly confirmed. Complainant categorically submitted that he has no objection that if the present FIR is quashed by the Hon'ble High Court. Copy of statement of the parties is being enclosed.*

ii) Whether any other person(s) has/have nominated as accused and whether any person(s) has/have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc?

** As per report of Investigating officer, only one person namely Pardeep Kumar son of Karan Singh has been nominated as accused in this case FIR. There is no other accused. No person has been declared as proclaimed offender/person in this case. Final report has not yet been filed in the Court and there is no cross-case between the parties pertaining to this case.”*

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there is only one accused person and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that none of the accused has been declared as proclaimed offender and no cross-case is pending between the parties pertaining to the present case.

I have heard learned counsel for the parties and have also gone through the case 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 complainants. Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view 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 the above, the petition is allowed and FIR No.377, dated 19.10.2020, under Sections 406 and 420 of the Indian Penal Code, registered at Police Station Chandimandir, District Panchkula, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

August 23, 2022

sarita

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No