

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(239)

CRM-M-15733-2021

Date of decision: - 10.03.2022

Nirmal and another

....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Tejpal Singh Dhull, Advocate,
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

None for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.334, dated 17.12.2019, under Sections 379-B and 34 IPC (later on Section 379-B IPC was deleted and Sections 323 and 506 of IPC were added), registered at Police Station Narwana City, District Jind (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 09.04.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“This petition filed under Section 482 Cr.P.C. seeks quashing of F.I.R No.334, dated 17.12.2019, under Sections 34, 379-B and later

on Section 379-B deleted and added Section 323 and 506 of IPC, 1860, registered at Police Station Narwana City, District Jind (Annexure P-1), and all subsequent proceedings arising therefrom, on the basis of compromise.

[2]. Ld. Counsel for the petitioners refers to Compromise Deed (Annexure P-2), and states that the matter has been amicably settled between the parties.

[3]. Notice of motion.

[4] Mr. Anmol Malik, D.A.G., Haryana to accept notice on behalf of respondent No.1.

[5] At this stage, Ms. Meena Bansal, Advocate has put in appearance through V.C on behalf of respondent No.2-complainant and admits the factum of compromise.

[6]. Let requisite number of copies of the Paper-book be supplied to both the counsel.

[7]. In view of the matter, the parties shall appear before the Trial Court/Illaq Magistrate on 13.05.2021 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.

[8]. To await report, list on 05.08.2021.”

In pursuance of the said order, the report has been submitted by the Sub Divisional Judicial Magistrate, Narwana, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Respected Sir,

I have the honour to submit that in aforesaid CRM, Hon'ble Punjab and Haryana High Court, Chandigarh vide order

dated 9.4.2021, has directed the court of undersigned to report qua the genuineness of the compromise effected between the parties.

In compliance with the aforesaid order, the complainant namely Ashok Kumar as well as persons namely Ms. Nirmal and Rajesh duly identified by their counsel have appeared before this court and got recorded their statements with regard to the veracity of the compromise between the parties. The desired report is submitted herein below: -

(i) It is submitted that as per case file, in the present FIR only two accused namely Ms. Nirmal and Rajesh are arrayed as accused.

(ii) It is submitted that as per record, no accused has been declared proclaimed offender in the present case FIR.

(iii) I am satisfied that the said compromise arrived between the parties is not the result of any pressured or coercion in any manner.

The original statements of the parties recorded by this Court with regard to points no.(i), (ii), (iii) and copy of zimni order dated 20.5.2021 passed by this Court is annexed herewith.

Submitted please,

Yours faithfully

(Vishal)

Sub Divisional Judicial Magistrate

Narwana. 20.5.2021

UID No.HR0331”

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, with any pressure or coercion.

Learned counsel for the petitioners has submitted that the

petitioners have not been declared proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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.334, dated 17.12.2019, under Sections 379-B and 34 IPC (later on Section 379-B IPC was deleted and Sections 323 and 506 of IPC were added), registered at Police Station Narwana City, District Jind (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 10, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No