

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16412-2022(O&M)
Date of decision : 17.08.2022

NARESH RATHI @ NARESH RATHEE

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Praveeen Bhadu, AAG, Haryana.

Mr. Lokesh Sharma, Advocate
for respondent Nos.2 to 5.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.527 dated 09.07.2015 registered under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code at Police Station City Sirsa, Haryana and all other consequential proceedings arising therefrom on the basis of compromise dated 07.02.2022 (Annexure P-2).

On 25.04.2022, a coordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this petition is for quashing of the FIR in question on the basis of the compromise entered into between the parties.

Notice of motion.

At this stage, Mr. Joginder Pal Ratra, DAG, Punjab and Mr. Lokesh Sharma, Advocate put in appearance and accept notice on behalf of the respondent-State and respondent Nos. 2 to 5. Learned

counsel for respondent Nos. 2 to 5 admits to the factum of compromise entered into between the parties.

List again on 17.08.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaqa Magistrate for recording of their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaqa Magistrate 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 in FIR,*
- 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.*

(ARVIND SINGH SANGWAN)
JUDGE

25.04.2022 ”

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

“From the statements as well as oral examination of parties by this Court, this Court is of the opinion that the matter in question has been compromised between the parties without any fear, coercion, inducement or threat. It further reveals that the compromise is voluntary and effected with free will.

The Investigation Officer EASI Inder Sain, posted at Police Post, Kirti Nagar has also appeared in the court of undersigned and got recorded his statement stating that initially there were two accused in this case and out of them proceedings against accused Ashish Sharma have already

been quashed by the Hon'ble High Court on dated 24.03.2021 and now, in this case there is only one accused, that is, the accused Naresh Rathi and said accused has never been declared as proclaimed offender in this case or in any other case. He further stated that in this case, there are total four victims including the complainant namely, Veer Singh, Sandeep, Rakesh and Pawan. He further stated that as per his information, three more cases are also pending against the accused Naresh Rathi. Statements of petitioner/accused as well as of joint statement of complainant and victims and the statement of investigating officer in original, are being sent herewith for kind perusal.

It is for your kind information and necessary action, please.

*Yours faithfully.
(Pooja Singla)''*

A perusal of the above said report would show that the compromise in the present case has been found to be voluntarily, without any coercion or undue influence.

Learned counsel for the petitioner and respondent No.2 have pointed out that there were two accused in the present case and the present petition has been filed by one accused Naresh Rathi, whereas, proceedings against accused-Ashish Sharma have already been quashed on the basis of compromise on 24.03.2021 and the present petitioner is the only accused left in this case.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offender in the present case.

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of compromise.

Learned counsel for respondent no.2-complainant 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. He prayed that FIR and subsequent proceedings may be quashed.

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 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***”, 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.527 dated 09.07.2015 registered under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code at Police Station City Sirsa, Haryana and all other consequential proceedings arising therefrom on the basis of compromise dated 07.02.2022 (Annexure P-2) are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

17.08.2022

Amandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No