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

CRM-M-16130-2022

Date of decision : 31.05.2022

Krishan @ Krishan Kumar and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Himanshu Gupta, Advocate for the petitioners.

Mr. Viney Phogat, DAG, Haryana.

Mr. Yaseen Sethi, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.0005 dated 09.01.2017 registered under Sections 323, 324, 34, 506 of the Indian Penal Code, 1860 at Police Station Dhand, District Kaithal (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 21.04.2022, this Court had passed the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.0005 dated 09.01.2017 registered under Sections 323, 324, 34, 506 of the Indian Penal Code, 1860 at Police Station Dhand, District Kaithal (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 31.05.2022.

On asking of the Court, Mr. Munish Sharma, AAG, Haryana appears and accepts notice on behalf of the respondent-State and Mr. Yaseen Sethi, Advocate appears on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month.

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 abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Kaithal. The relevant portion of the said report is reproduced hereinbelow:-

“On the basis of the report of Station House Officer concerned and on the basis of statement of concerned Investigating Officer namely HC Rajeev Kumar and statement of Additional Station House Officer namely Shri Ram Lal, got recorded before the court, the following report is being sent as under:

(A) The present FIR has been registered on the complaint

moved to the police by complainant Sunil Kumar son of Mahender Singh against four persons namely Balbir son of Ram Chander, Shubham @ Shubham Kumar son of Balbir Singh, Sahil @ Sahil Kumar son of Balbir Singh and Krishan @ Krishan Kumar son of Ram Chander. After investigation, challan has been submitted before the court against all the above-stated four accused namely Balbir, Shubham @Shubham Kumar, Sahil @ Sahil Kumar and Krishan @ Krishan Kumar.

(B) No accused has been declared proclaimed offender.

(C) Following criminal cases were registered against accused Balbir:

1. FIR No.39 dated 14.04.2013, under Sections 120-B, 148, 149, 186, 307, 323, 332, 353 and 452 of Indian Penal Code, 1860 and Section 3 of SC/ST Act, registered at Police Station Dhand, District Kaithal, wherein accused Balbir has been acquitted as per the order dated 02.09.2013 passed by Shri J.S. Sidhu, the then learned Additional Sessions Judge, Kaithal.

2. FIR No.55 dated 15.05.2013, under Sections 120-B, 307 and 323, read with Section 34 of Indian Penal Code, 1860 and Section 3 of SC/ST Act, registered at Police Station Dhand, District Kaithal, wherein accused has been acquitted as per order dated 25.10.2013 passed by Shri Rajan Walia, the then learned Additional Sessions. Judge, Kaithal.

(D) No criminal case has been registered against other three accused persons namely Shubham @ Shubham Kumar, Sahil @ Sahil Kumar and Krishan @ Krishan Kumar.

(E) As per the report received from Station House Officer concerned and statements of the police officials i.e. Investigating Officer HC Rajeev Kumar and Shri Ram Lal,

Additional Station House Officer, Police Station Dhand and as per the record available with this court, there is only one victim/complainant namely Sunil Kumar son of Mahender Singh.

Thus report submitted, please.

Thanking you,

Yours Sincerely,

Sd/- (Anita Rani)

Judicial Magistrate First Class,

Kaithal, U.I.D.No.:HR-0460”

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 petitioners has submitted that the petitioners were not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions has stated that this fact is correct.

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 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**”, 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.0005 dated 09.01.2017 registered under Sections 323, 324, 34, 506 of the Indian Penal Code, 1860 at Police Station Dhand, District Kaithal (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

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

31.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No