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

1. CRM-M-18755-2022
Date of decision : 28.09.2022

Satvir Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

2. CRM-M-19105-2022
Date of decision : 28.09.2022

Satvir Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. G.S. Madaan, Advocate for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Neeraj Gupta, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

By this common order, two petitions bearing No.CRM-M
Nos.18755 and 19105 of 2022 shall stand disposed of.

Prayer in the first petition bearing No.CRM-M-18755-2022 is

for quashing of FIR No.149 dated 19.11.2008 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station City Fazilka, District Ferozepur and all the consequential proceedings arising therefrom on the basis of compromise. Prayer in the second petition bearing No.CRM-M-19105-2022 is for setting aside order dated 01.11.2012 passed by the Judicial Magistrate Ist Class, Fazilka in the abovesaid FIR, whereby, the petitioner has been declared as proclaimed person.

On 20.07.2022, a Coordinate Bench of this Court was pleased to pass the following order in CRM-M-18755-2022:-

“The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.149 dated 19.11.2008 under Sections 406 and 420 of the Indian Penal Code registered at Police Station City Fazilka, District Ferozepur and all consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion.

At this stage, Ms. Amarjit Kaur Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Neeraj Gupta, Advocate, appears on behalf of respondent No.2 and admits the execution of compromise.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 23.08.2022 or on any other date as convenient to the Court.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;*
- (ii) Whether any accused is proclaimed offender;*
- (iii) The stage of trial/proceedings; and*
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

To come up on 28.09.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.

Sd/- (VINOD S. BHARDWAJ)

JUDGE

20.07.2022 ”

Thereafter, on 02.09.2022, the following order was passed by
this Court:-

“This is an application under Section 482 Cr.P.C. for exemption of the applicant-petitioner from personal appearance before the Court with a prayer to get the statement of the applicant-petitioner recorded by way of video conferencing or in the alternative through an Advocate or authorised person.

Learned counsel for the applicant-petitioner has submitted that the matter has been compromised and in support of compromise, the applicant-petitioner and respondent no.2 have to appear before the Illaqa Magistrate/ trial Court and since the applicant-petitioner is suffering from Covid, thus, the present application has been moved.

Keeping in view the averments made in the application, the same is allowed and the applicant-petitioner is permitted to appear through his counsel and the said counsel shall take an affidavit of the applicant-petitioner in support of the compromise. The trial Court would accept the said affidavit of the applicant-petitioner

from the authorised counsel and he would not be required to personally appear before the trial Court. However, respondent no.2 would be required to personally appear before the trial Court to make his statement in support of the compromise.”

On 20.07.2022, a Coordinate Bench of this Court was pleased to pass the following order in CRM-M-19105-2022:-

“CRM- 16677 of 2022

Prayer in this application filed under Section 482 of the Code of Criminal Procedure is for exemption from filing certified copies of Annexures P-1 to P-9.

Allowed as prayed for.

CRM-M- 19105 of 2022

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 challenging order dated 01.11.2012 passed in FIR No. 149 dated 19.11.2008 under Section 406 and 420 of the Indian Penal Code registered at Police Station City Fazilka whereby the petitioner has been declared as a proclaimed person.

Learned counsel appearing on behalf of the petitioner contends that the dispute in the FIR itself has been amicably settled amongst the parties and that a quashing petition bearing No. 18755 of 2022, on the strength of the said compromise has already been filed wherein notice of motion has been issued on even date. He contends that continuation of the proceedings pursuant to the order dated 01.11.2012 would not advance any interest of justice. It is fairly submitted by learned counsel appearing on behalf of the petitioner that the petitioner has absented himself from the proceedings after securing bail and has remained as a proclaimed person for a period of nearly 10 years.

Notice of motion.

At this stage, Ms. Amarjit Kaur Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Neeraj Gupta, Advocate, appears on behalf of respondent No.2.

Adjourned to 28.09.2022.

In the meantime, in order to enable the petitioner to get his statement recorded before the Illaqa Magistrate/Trial Court, in support of the compromise so claimed to have effected, operation of the order dated 01.11.2022, declaring the petitioner as a proclaimed person, shall remain stayed, subject to the petitioner depositing costs of Rs. 25,000/- with the Punjab State Legal Services Authority, Mohali.

Sd/-(VINOD S. BHARDWAJ)

JUDGE

20.07.2022”

In pursuance of the abovesaid orders, a report has been submitted by the Chief Judicial Magistrate, Fazilka. The relevant portion of the said report is reproduced hereinbelow:-

“In view of the aforesaid statements, the report as desired by Hon'ble Punjab and Haryana High Court is hereby submitted as follows:

(i) As per the record, statement of complainant and investigating officer, only accused Satvir Singh was arrayed as accused in the FIR in question.

(ii) As per the record and statement of investigating officer, accused Satvir Singh was declared as proclaimed person in the present FIR but the operation of said order vide which he was declared as proclaimed person has been stayed by

Hon'ble Punjab and Haryana High Court vide order dated 20.07.2022 in CRM-M-19105 of 2022 subject to deposit of Rs.25,000/- with Punjab State Legal Services Authority, Mohali and as per copy of receipt Ex.C2, the said cost is stated to have been deposited.

(iii) As per the record and the statement of the investigating officer, the file of the present FIR was consigned to record room vide order dated 28.04.2014 after recording evidence under Section 299 Cr.P.C.

(iv) The compromise effected between the parties appears to be genuine and result of free will of the parties without any kind of coercion or undue influence.”

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 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 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**”, 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, both the

petitions are allowed and FIR No.149 dated 19.11.2008 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station City Fazilka, District Ferozepur and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner and order dated 01.11.2012 passed by the Judicial Magistrate Ist Class, Fazilka in the abovesaid FIR, whereby, the petitioner has been declared as proclaimed offender, is set aside.

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

28.09.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**