

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-28864-2022(O&M)

Date of decision : 28.07.2022

Azruddin and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Rosi, Advocate
for the petitioners.

Mr.Anmol Malik, DAG, Haryana.

Ms. Anu Bala Garg, Advocate
for respondent nos.4 to 6.

VIKAS BAHL, J.(ORAL)

This is petition under Section 482 Cr.P.C. praying for quashing of FIR no.0154 dated 04.0.2022 registered under Sections 147, 148, 149, 323, 324, 379-B and 506 IPC at Police Station Sadar Tauru, District Nuh and all other consequential proceedings arising therefrom on the basis of compromise.

On 08.07.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.154 dated 04.04.2022 registered under Sections 147, 148, 149, 323, 324, 379-B and 506 of the Indian Penal Code, 1860 at Police Station Sadar Tauru, District Nuh (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 28.07.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana appears and accepts notice on behalf of the respondent-State and Ms. Anu Bala Garg, Advocate appears on behalf of respondent Nos.4 to 6.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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

“ The report as desired is following:

- 1). The total number of accused is nine (9) as per FIR, the names of accused are Ajruddin son of Jakir, Jakir @ Billa son of Jaleb Khan, Javed son of Jaleb Khan, Nisar son of Jaleb Khan, Mohabbat son of Javed, Sehbaj son of Javed, Hajra wife of Jaleb Khan, Sherbi wife of Jakir and Sunnar wife of Javed.*
- 2) None of the accused is proclaimed offender.*
- 3) The compromise is genuine, voluntary and without any coercion or undue influence.*
- 4) As per the statement of Investigating Officer, PSI Suraj, PS Sadar Tauru some of the accused are involved in other FIR as under:*

i) Accused Jakir @ Billa son of Jaleb Khan is involved in another FIR No. 107/2009 u/s 41 and 42 of Forest Act, PS Tapukada, District Alwar (Rajasthan) and another FIR no. 574/2019 u/s 148, 149, 323, 325 and 506 TPC, PS Sadar Tauru.

ii) Accused Javed son of Jaleb Khan is also involved in FIR no.574/2019 u/s 148, 149, 323, 325 and 506 PC, PS Sadar Tauru.

iii) Accused Ajruddin son of Jakir is involved in FIR no. 253/2017 u/s 279, 336 IPC and section 3 of PDPP Act, PS Sector-55, Faridabad.

iv) Accused Nisar son of Jaleb Khan is facing trial after summoning in an application u/s 319 Cr.P.C. for offences u/s 452, 506 IPC and section 6 of POCSO Act.

5 The statement of Investigating Officer is recorded, who has stated that in this case there is one complainant namely Iqbal son of Kamruddin and injured/victim are two namely Parmeena wife of Iqbal and Yusuf son of Kamruddin, all residents of village Seelkho, Tehsil Tauru, District Nuh.

The report is submitted for your honour's kind information and necessary action.

Thanking you

Yours Faithfully

(Satish Kumar)

*Additional Chief Judicial Magistrate
Nuh”*

A perusal of the above said report would show that the petitioners and respondent nos.4 to 6 (complainant and victims) have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offenders in the present case.

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

Learned counsel for respondent nos.4 to 6 has again reiterated that the matter has been settled and the said compromise is in the interest of

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***”, 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***”, 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. ”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR no.0154 dated 04.0.2022 registered under Sections 147, 148, 149, 323, 324, 379-B and 506 IPC at Police Station Sadar Tauru, District Nuh and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

July 28, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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