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

CRM-M-29154-2022

Date of decision : 28.09.2022

Ashwani and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Jagmohan Ghumman, Advocate for the petitioners.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Neeraj Jain, Advocate for
Mr. Robin Gill, 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.534 dated 08.07.2017 registered under Sections 307, 323, 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sector-10, District Gurugram (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 11.07.2022, this Court had passed the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.534 dated 08.07.2017 registered under Sections 307, 323, 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sector-10, District Gurugram (Annexure P-1) and all the

subsequent proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioners has submitted that in the present case, there are four accused persons but the present petition has been filed by two accused persons i.e. the present petitioners and thus, the present case is a case of partial compromise and has relied upon judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012 (12) SCC 401** to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected. It is further submitted that the present case is a case of no injury and prima facie, no offence under Section 307 of IPC is made out.*

Notice of motion for 10.08.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana appears and accepts notice on behalf of the respondent-State and Mr. Robin Gill, Advocate appears on behalf of respondent No.2 and has reaffirmed the abovesaid facts as stated by learned counsel for the petitioners.

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.”*

Thereafter, on 09.09.2022, the following order was passed:-

“Learned counsel for the petitioners has submitted that one more opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 28.09.2022.

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

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.*

However, since the statement of the parties could not be recorded before the Illaqa Magistrate/trial Court in spite of the direction given vide order dated 11.07.2021, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioners in the 'Bar Clerks Association, Punjab and Haryana High Court, Chandigarh', within a period of one month from today.

The trial Court shall only record the statements of parties on production of receipt of said payment.

It is made clear that if the said amount is not deposited within the stipulated period of time, then the present petition would be deemed to have been dismissed.”

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

“4. The point-wise report is as under.

i) There are four accused namely Rahul, Bharat, Ashwani and Yashpal @Monu in the present FIR. Two accused persons Yashpal @ Monu and Ashwani have appeared before the court and made their statements.

ii) None of the accused persons are proclaimed offender.

iii) The compromise is genuine voluntary and out of free will of the parties.

iv) No other case is pending against the accused persons.

v) There is one Complainant only namely Naveen.”

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 the said 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.534 dated 08.07.2017 registered under Sections 307, 323, 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sector-10, District Gurugram (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.

28.09.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No