

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(284)

CRM-M-25665-2019

Date of decision: - 08.08.2022

Rohit Kumar

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. J.S. Moudgill, Advocate, for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. J.S. Bhinder, Advocate, for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.24 dated 10.02.2019, registered under Sections 353 and 186 of the Indian Penal Code, 1860 at Police Station City Sunam, District Sangrur and all the subsequent proceedings arising therefrom on the basis of compromise.

On 31.05.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioner contends that matter has been compromised between the parties.

Notice of motion.

On the asking of the Court, Mr. C.L. Pawar, Senior DAG Punjab accepts notice on behalf of respondent No.1-State.

Mr. J.S. Bhinder, Advocate, appears, files Power of Attorney on behalf of respondents No.2 and 3 and the same is taken on record. He acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned counsel for the respondents during the course of the day.

Petitioner shall file his affidavit before learned trial Court that there is no other criminal case pending against him and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

In view of above, let the parties be appeared before the Court of learned Illaqa Magistrate/trial Court on 17.07.2019 to record their statements with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court, before the next date of hearing, containing the following information:-

- (i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?*
- (ii) Whether the compromise effected between the parties is genuine and valid?*
- (iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?*
- (iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?*
- (v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*
- (vi) Whether any of the petitioner(s) is/are previous convict or not?*

List before this Court on 17.08.2019 for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

A copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.

(MAHABIR SINGH SINDHU)
JUDGE

May 31, 2019”

In pursuance of the said order, the report has been submitted by the Sub Divisional Judicial Magistrate, Sunam to the Registrar Judicial of this Court. The relevant part of the report is reproduced hereinbelow:-

“The undersigned has carefully gone through the statements got recorded by the complainant and the accused. Ex-facie, it transpires from the statements of the parties (recorded before the undersigned) that they have arrived at compromise with their free volition, without any inducement, threat, promise, coercion or undue influence from any quarter. Apparently, the compromise has been genuinely arrived at to eliminate bitterness and acrimony between the parties and in order to restore cordial relations.

Further, report of undersigned was called as to whether all the accused, complainant and injured are party to the compromise and if not, the details/ particulars of such person (s), whether any other case is pending against either of the parties or not, if yes, the details thereof, whether any of the persons involved in this case/ dispute has been declared as proclaimed offender and whether any of the petitioner(s) is/ are previous convict or not. Accordingly, it is submitted that complainant Satpal Ram and injured Naranjan Singh and accused Rohit Kumar are party to the compromise and as per their statements, no other case is pending against them. Further, as per the statement of accused Rohit Kumar, he has not been declared as proclaimed person and is also not a previous convict. Hence, this report. Photocopies of the statements are enclosed herewith for kind perusal.

Thanking you,

Submitted please: -

*Dipti Goyal, PCS,
Sub Divisional Judicial Magistrate,
Sunam, UID No.PB-0300."*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioner has submitted that the petitioner has not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.2 and 3 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.

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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.24 dated 10.02.2019, registered under Sections 353 and 186 of the Indian Penal Code, 1860 at Police Station City Sunam, District Sangrur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 08, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No