

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(242)

CRM-M-25891-2019

Date of decision: - 14.03.2022

Khurshid

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Mohdmmad Arshad, Advocate, for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

None for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.163 dated 18.04.2019, registered under Sections 332, 353, 186 and 506 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ferozepur Jhirka, District Mewat-Nuh 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:-

“Prayer in this petition under Section 482 Cr.P.C. has been made for quashing FIR No.163, dated 18.04.2019, registered under Sections 332, 353, 186, 506 IPC, Section 3 of Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015), Police Station Ferozepur Jhirka, District Mewat-Nuh, and all subsequent proceedings arising therefrom, on the basis of compromise

(P-2).

Notice of motion.

At the asking of the Court, Mr. Munish Sharma, AAG, Haryana, has accepted notice on behalf of the respondent-State, whereas Ms. Sunita Gupta, Advocate accepts notice on behalf of respondents No.2 and 3 and filed vakalatnama. The same is taken on record. Be tagged at appropriate place.

Let requisite number of copies of paper-book be supplied to learned State counsel as well as learned counsel for respondents No.2 and 3, during the course of the day.

Adjourned to 03.10.2019.

Meanwhile, petitioner shall deposit `15,000/- as costs with "Bharat Vikas Parishad Maharana Pratap Nyas", Account No.0188000108700281, IFS Code PUNB0018800, Punjab National Bank, Fountain Chowk, Gurugram, as a pre-condition for recording of statements. Thereafter, parties shall appear before the Illaqa Magistrate/trial Court, who, after having the photocopy of receipt of amount of Rs.15,000/- as above duly verified by their counsel, shall record their statements and send a report to this Court as to whether the compromise is genuine, without any pressure or undue influence and also whether any accused was declared as proclaimed offender, till the next date of hearing.

Original receipt be produced in the Court on the date fixed.

To be shown in the urgent list."

In pursuance of the said order, the report has been submitted by the Sub Divisional Judicial Magistrate, Ferozepur Jhirka, which was forwarded by the District and Sessions Judge, Mewat to the Registrar General of this Court. The relevant part of the said report is reproduced hereinbelow:-

"In compliance of the aforesaid order, petitioner/applicant Khurshid and respondents Mohd. Aslam and Dinesh had appeared in the Court. Petitioner/applicant Khurshid has filed the photostat of the receipt, verified by Shri Ayub Khan, Advocate showing that the

amount of costs of Rs.15,000/- has been deposited in the account of 'Bharat Vikas Parishad Maharana Pratap Nyas', account No.0188000108700281, IFS Code PUNB 0018800, Punjab National Bank, Fountain Chowk, Gurugram.

xxx xxx xxx xxx

The report as desired by the Hon'ble High Court is hereby submitted to the effect that as per the statement recorded by the respondents namely Mohd. Aslam and Dinesh Kumar and petitioner Khurshid of above said CRM-M-25891-2019, this Court is of the considered view that the instant compromise is genuine, voluntarily and without any coercion or undue influence.

The report is hereby submitted to the Hon'ble High Court (through proper channel) after necessary compliance and after placing on record photocopies of the record along with office copy of this report.

(Parveen),

SDJM, Ferozepur Jhirka,

04.07.2019"

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. Perusal of the report would also show that the amount of Rs.15,000/- has been deposited by the petitioner as per the order dated 31.05.2019 passed by a Co-ordinate Bench of this Court.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he has not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 feel that the same was 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.163 dated 18.04.2019, registered under Sections 332, 353, 186 and 506 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ferozepur Jhirka, District Mewat-Nuh and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

March 14, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No