

CRM-M-31682-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(321)

CRM-M-31682-2022

Date of decision:- 29.11.2022

Yaksh Kataria

....Petitioner

Versus

State of Haryana and Another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Anjali Sheoran, Advocate, for
Ms. Monika Thakur, Advocate,
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

None for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.116 dated 26.11.2021 registered under Section 354-D IPC and Section 67-A of Information Technology Act at Police Station Women Sector 51, Gurugram and all other consequential proceedings arising therefrom on the basis of compromise.

On 22.07.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Notice of motion.

Ms. Sheenu Sura, DAG, Haryana and Ms. Narinder Kaur, Advocate, accept notice on behalf of respondent No.1 and respondent No.2.

Learned counsel for the petitioner undertakes to supply a

complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.116 dated 26.11.2021 registered under Sections 354-D IPC and Section 67-A of Information Technology Act at Women Police Station. Sector-51, Gurugram on the strength of a written compromise dated 07.07.2022 (Annexure P-2) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 10.08.2022 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties. The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 29.11.2022.

(DEEPAK SIBAL)
JUDGE

July 22, 2022”

In pursuance of the said order, the report has been submitted by the Principal Magistrate, Juvenile Justice Board, Gurugram, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“It is submitted that undersigned has recorded the statements of respective parties pertaining to compromise which has been arrived between the parties to the litigation. Further, it is submitted that statements of the parties recorded by the undersigned is genuine, voluntarily and without any coercion or undue influence. Further, it is submitted that there is only accused i.e. Child-in-conflict with law who is party to the present compromise and the said Child-in-conflict with law has not ever been declared proclaimed offender. Further, it is submitted

that as per the report of Special Juvenile Police Officer concerned, no other case is pending against the said Child-in-conflict with law. "

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 their 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.

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.116 dated 26.11.2021 registered under Section 354-D IPC and Section 67-A of Information Technology Act at Police Station Women Sector 51, Gurugram and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

November 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No