

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32184-2022

Date of decision:23.08.2022

Sanju Mulamutil Varghese

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ramender Chauhan, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Ms. Preeti Singh, Advocate for complainant-respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.0188 dated 10.04.2021 registered under Sections 323, 342, 506 IPC at Police Station Sector 50, District Gurugram and all other consequential proceedings arising therefrom on the basis of compromise.

On 26.07.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.0188 dated 10.04.2021 registered under Sections 323, 342, 506 IPC at Police Station Sector 50, District Gurugram and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise.

Notice of motion for 23.08.2022.

On the asking of the Court, Mr. Anmol Malik, DAG, Haryana, accepts notice on behalf of respondent No.1. Ms. Preeti Singh, Advocate, appears on behalf of complainant-respondent no.2 and admits the factum of compromise.

The parties are directed to appear before the Illaqa

Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.*

July 26, 2022

*(VIKAS BAHL)
JUDGE”*

In pursuance to the said order, a report has been submitted by Judicial Magistrate 1st Class, Gurugram. The relevant portion of the said report is reproduced hereinbelow:-

“It is further submitted that L/HC Shakuntla (IO), Belt No.227, P.S. Sector-50, Gurugram has suffered a statement to the effect that she is Investigating Officer of the case bearing FIR No.0188 dated 10.04.2021 under Sections 323, 342, 506 IPC Police Station Sector 50, Gurugram. It is further stated that there is only one complainant namely Pratima Sanu Varghese. It is further stated that there is one accused namely Sanju Mulamutil Varghese, they are parties to the compromise and accused has not been declared as proclaimed offender in the present case and he is not involved in any criminal case/FIR.

It is further submitted that on being satisfied that the statements were being voluntarily made, statements of the parties were recorded on oath, wherein they have acknowledged of having entered into compromise voluntarily, without any undue influence or coercion. In the considered view of this court, compromise has been effected between the parties with their free will. Compromise is voluntarily, without any undue influence and coercion.

Statement of the parties and Investigating Officer in original are enclosed herewith.

Submitted please.

*(Azad Singh)
Judicial Magistrate First Class,
Gurugram, UID No.HR0527
28.07.2022”*

A perusal of the above said report would show that the petitioner and complainant-respondent No.2-Pratima Sanju Varghese have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioner has further submitted that the petitioner was not declared proclaimed offender 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 petitioner.

Learned counsel for complainant-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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.0188 dated 10.04.2021 registered under Sections 323, 342, 506 IPC at Police Station Sector 50, District Gurugram (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 23, 2022.

Ishwar Singh

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No