

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

283

CRM-M-33051-2020
Decided on : 28.07.2022

Arshad Khan and others

. . . Petitioners

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Kunwar Rajan, Advocate
for the petitioners.

Mr. Anmol Malik, DAG, Haryana.

Mr. Amanpreet Singh, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 113 dated 26.07.2020 under Sections 148, 149, 323, 324 and 326 of the Indian Penal Code, 1860 registered at Police Station Dhauj, District Faridabad (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 25.03.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Counsel representing respondent No.2 submits that the statement of complainant-respondent No.2 could not be recorded due to spread of contagion. He prays for fixing of the another date for recording the said purpose.

Let the complainant-respondent No.2

appear before the trial Court/Duty Magistrate on 02.04.2021 for recording his statement.

List on 05.08.2021 to await the report of the trial Court in pursuance of order dated 13.01.2021.

25.03.2021

*Sd/-
(SUVIR SEHGAL)
JUDGE”*

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

“Vide order dated 25.03.2021, passed by the Hon'ble High Court, the complainant in the present case was directed to appear before the trial Court for recording of his statement and trial Court was directed to record the statement of the complainant regarding compromise.

On 02.04.2021, complainant Mumtaj appeared for recording the statement of compromise. Statement of complainant Mumtaj was recorded with regard to compromise and he is duly identified by his counsel Shri Sagar Upadhyay, Advocate. There is only one complainant/victim Mumtaj.

Statements of the complainant in original and photocopy of his identity card are enclosed herewith.

Submitted please.”

A perusal of the file would show that on 19.02.2021, the accused persons have appeared before the Judicial Magistrate 1st Class,

Faridabad for recording their statements but the complainant had not appeared and it was found that there was only one complainant namely Mumtaj and it is subsequently on 02.04.2021, the said Mumtaj also appeared and gave statement in support of the compromise.

A perusal of the above report would show that it has been stated that the statements of the complainant as well as the petitioners have been recorded in the case and they 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 further submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are 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 as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be

quashed. 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, the petition is allowed and FIR No. 113 dated 26.07.2020 under Sections 148, 149, 323, 324 and 326 of the Indian Penal Code,1860 registered at Police Station Dhauj, District Faridabad (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

28.07.2022

Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No