

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

254

CRM-M-38222-2021
Decided on : 27.04.2022

Kapil Mittal

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Ms. Kulwinder Kaur, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 32 dated 04.03.2021 under Section 406 of the Indian Penal Code, 1860 and Sections 4, 5 and 6 Prize Chits and Money Circulation Schemes (Banning) Act, 1978 registered at Police Station Fazilka, District Fazilka (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 15.09.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

*“The matter has been taken up through
video conferencing.*

Notice of motion.

Mr. Jagmohan S. Ghumman, DAG, Punjab and Ms. Kulwinder Kaur, Advocate accept notice on behalf of respondents No.1 and 2 respectively.

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. 32 dated 04.03.2021 registered under Section 406 IPC and Section 4, 5, 6 Prize Chits and Money Circulation Schemes (Banning) Act, 1978 at Police Station City Fazilka, district Fazilka on the strength of a written compromise dated 03.05.2021 (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 24.09.2021 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with 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 07.12.2021.*

*Sd/-
15.09.2021 (DEEPAK SIBAL)
JUDGE”*

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

“In view of the aforesaid statements, the report as desired by Hon'ble Punjab and Haryana High Court is hereby submitted as follows:

(i) There is only one accused namely Kapil Mittal in the present FIR and he is party to the compromise.

(ii) As per the statement of accused and ASI Bhagwan Chand, the investigation officer, accused Kapil Mittal is not declared as proclaimed offender in any case and no other criminal case is pending against him.

(iii) The compromise effected between the parties appears to be genuine and result of free will of the parties without any kind of pressure, fraud and misrepresentation.

Therefore report alongwith statements of parties and documents as desired by Hon'ble High Court is submitted with a request to put up before Hon'ble Punjab & Haryana High Court in CRM-M-38222-2021 pending for 07.12.2021.”

A perusal of the above report would show that it has been stated that the statements of Complainant as well as the petitioner 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 petitioner has submitted that the petitioner was never declared proclaimed offender in the present case and is 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 reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 32 dated 04.03.2021 under Section 406 of the Indian Penal Code, 1860 and Sections 4, 5 and 6 Prize Chits and

Money Circulation Schemes (Banning) Act, 1978 registered at Police Station Fazilka, District Fazilka (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioner.

April 27th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No