

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38611-2021

Date of decision : 25.03.2022

Sunil Kumr and others

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.G.S.Sandhu, Advocate
for the petitioners.

Mr.Pradeep Prakash Chahar, DAG, Haryana.

Mr.Dinesh Maurya, 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.619 dated 05.09.2019 registered under Sections 323, 452, 506 IPC (Sections 148 and 149 IPC added later on) at Police Station Assandh, District Karnal and all other consequential proceedings arising therefrom on the basis of compromise.

On 20.09.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“By this petition, the petitioners seeks quashing, on the basis of a compromise arrived at between them and respondent no.2, of FIR no.619, dated 05.09.2019, registered at Police Station Assandh, District Karnal, for the alleged commission of offences punishable under the provisions of Sections 323, 452 and 506 of the IPC, (with Section 148 and 149 of the IPC added later) as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepts notice at the asking of the court on behalf of respondent no.1, with Mr. Dinesh Maurya, Advocate, appearing and accepting notice on behalf of respondent no.2. He will file a power of attorney duly executed by the aforesaid respondent in his favour well before the next date of hearing.

A copy of the petition be emailed to both learned counsel by counsel for the petitioners today itself.

Adjourned to 07.12.2021.

In the meanwhile, the petitioners, as also respondent no. 2, would appear before the learned trial court/Ilaqa Magistrate upto 08.11.2021 to record their statements.

The trial court/Ilaqa Magistrate would satisfy itself/herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners, of like nature or otherwise.

September 20, 2021

***(AMOL RATTAN SINGH)
JUDGE”***

In pursuance to the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Assandh. The relevant portion of the said report is reproduced hereinbelow:-

“In view of the statements given by the complainant Balwinder Singh and the accused present in the Court, it appears that the compromise has been entered into between them voluntarily and without any pressure or influence from any side.

As per the averments made in the initial complaint filed by the complainant Balwinder Singh and challan submitted in the Court, there is no other person involved in the occurrence, who is

not a party to the present petition and whose consent for compromise would be required, if the Hon'ble High Court came to the conclusion that the FIR sought to be quashed can be quashed.

Submitted please.

Yours faithfully,

*(Aparna Bhardwaj)
Sub-Divisional Judicial Magistrate
Assandh. UID No.HR-0345*

Dated.2. 11.2021.”

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

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offenders 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 petitioners.

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, this Court finds that the matter has been amicably settled between the petitioners 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.

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.619 dated 05.09.2019 registered under Sections 323, 452, 506 IPC (Sections 148 and 149 IPC added later on) at Police Station Assandh, District Karnal and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 25, 2022.

Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No