

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34835-2022 (O&M)

Date of decision:31.08.2022

Sandhya Finance Ltd. and others

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashwani Bhardwaj, Advocate for the petitioners.

Mr. Dhruv Sihag, AAG, Haryana.

None for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.765 dated 07.10.2017 registered under Sections 406, 415, 420, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Civil Lines, Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 08.08.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.765 dated 07.10.2017 registered under Sections 406, 415, 420, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Civil Lines, Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 31.08.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana appears and accepts notice on behalf of the respondent-State.

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.*

(VIKAS BAHL)
JUDGE”

08.08.2022

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

“As regards to the point wise information sought by Hon'ble High Court, it is submitted that:-

- (i) five persons namely, Amar Kumar Aggarwal, Rajender Kumar, Prem Lata, Dharmender Singh and Deepti Aggarwal and one company M/s Sandhya Finance Limited (duly prosecuted by Rajender Kumar, Director of company) have been arrayed as accused in present FIR no.765 dated 07.10.2017, P.S. Civil Lines,*
- (ii) No person has been as declared proclaimed offender in FIR No.765 dated 07.10.2017.*
- (iii) Compromise is genuine and has been effected voluntarily and without any coercion or undue influence.*
- (iv) As per statement of Investigating Officer present accused persons are not involved in any other FIR.*
- (v) As per statement of Investigating Officer as well as statement of complainant, there is only one victim/ complainant Ishwar in the present FIR.*

The requisite report is being submitted please as desired.

(Sunil)
Judicial Magistrate 1st Class,
Hisar.
UID No.HR0397”

Dated:18.08.2022

A perusal of the above said report would show that the petitioners, complainant/respondent No.2 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 petitioners has further submitted that the petitioners 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.

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.

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

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.765 dated 07.10.2017 registered under Sections 406, 415, 420, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Civil Lines, Hisar (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Pending application, if any, stands disposed of in view of the above said order.

August 31, 2022

Ishwar Singh

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No