

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35691-2022(O&M)

Date of decision : 21.09.2022

Sonu @ Lallu and another

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sandeep Singh Ghangas, Advocate
for the petitioners.

Mr.Dhruv Sihag, AAG, Haryana.

Mr.R.K.Chaudhary, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

CRM-35858-2022

This is an application under Section 482 Cr.P.C. seeking amendment of head note and prayer clause of the main petition.

Learned counsel for the petitioners has submitted that the FIR was registered under Sections 148, 149, 323, 341, 379B and 506 IPC against the petitioners but the final report under Section 173 Cr.P.C. has been filed against the petitioners for the offences under Sections 323, 341, 506, 326, 34 IPC but inadvertently the same could not be mentioned in the head note and prayer clause of the petition, although the same has been mentioned in paragraph 2 of the petition.

Notice in the application.

Learned State counsel has submitted that he has no objection if

the application is allowed.

In view of the reasons mentioned in the application, the application is allowed and the head note and prayer clause of the petition are ordered to be amended.

Registry is directed to carry out the necessary correction in the head note and prayer clause of the petition.

CRM-M-35691-2022

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.0495 dated 17.07.2019 registered under Sections 148, 149, 323, 341, 379B, 506 IPC at Police Station Gharaunda, District Karnal wherein after investigation, the final report under Section 173 Cr.P.C. was filed against the petitioners only for the offences under Sections 323, 341, 506, 326, 34 IPC, and all other consequential proceedings arising therefrom on the basis of compromise.

On 06.09.2022, 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.495 dated 17.07.2019, registered under Sections 148, 149, 323, 341, 379-B and 506 IPC, at Police Station Gharaunda, District Karnal and all other consequential 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.

Adjourned to 21.09.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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.*

September 06, 2022 **(VIKAS BAHL)**
JUDGE."

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

"5. Further following information is also sought by Hon'ble High Court.

1).Ques: Number of persons arrayed as accused in FIR

Ans: As per the report of Investigating Officer five accused namely Sonu, Satbir, Choti. Abhishek & mother of Sonu were arrayed as accused and final report against Sonu & Satbir was submitted.

2)Ques: Whether any accused is a proclaimed offender?

Ans: No one is a proclaimed offender or Proclaimed person.

3) Ques: Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Ans. Yes, After going through the statements of the parties and after enquiring from the counsel representing the two sides, I am of the view that the compromise has been arrived between the complainant party and accused persons voluntarily without any threat, pressure, undue influence or fraud. Thus in my considered opinion the compromise arrived at between the two sides is genuine and voluntary act of the parties and the complainant and injured has no objection in quashing of FIR registered against the accused persons.

4)(Ques) Whether the accused persons are involved in any other FIR or not?

Ans No other FIR is pending.

5)(Quest) The trial Court is also directed to record the statement of the Investigating Officer as to how many

victims/complainant are there in the FIR.

Ans Statement of Investigating Officer recorded on 19.09.2022 and as per his statement there is no other victim except Varun Sharma (complainant).”

A perusal of the above said report would show that there were five accused in all out of which report has been submitted against two accused, who are both the petitioners in the present case and the present petitioners and respondent no.2-complainant 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 relied upon the judgment of the Hon’ble Supreme Court titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as ***2012 (12) SCC 401***, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2018 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** in which case, the coordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

Learned counsel for the petitioners has further submitted that the petitioners were 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 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.

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.0495 dated 17.07.2019 registered under Sections 148, 149, 323, 341, 379B, 506 IPC at Police Station Gharaunda, District Karnal wherein after investigation, the final report under Section 173 Cr.P.C. was filed against the petitioners only for the offence under Sections 323, 341, 506, 326, 34 IPC and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

September 21, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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