

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

285

CRM-M-40828-2021
Decided on : 05.05.2022

Dharamender and another

. . . Petitioners

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Ajay Jain, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Atul Gaur, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 136 dated 15.05.2019 under Sections 323, 34 and 498-A of the Indian Penal Code, 1860 registered at Police Station Kosli, District Rewari (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 15.12.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“Petitioners are seeking quashing of FIR bearing No. 136 dated 15.05.2019, under Sections 323/34/498-A IPC, registered at Police Station Kosli, District Rewari and all the subsequent proceedings arising therefrom on the basis of compromise having been effected between the parties.

Learned counsel for the petitioners contends that the matrimonial dispute has been amicably settled and the parties are happily residing together in the matrimonial house.

Notice of motion.

Ms. Sheenu Sura, DAG, Haryana accepts notice on behalf of the respondent-State.

Mr. Atul Gaur, Advocate has put in appearance on behalf of respondent No.2 and filed his power of attorney and has acknowledged the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 19.01.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any date convenient to the Court concerned.

The learned 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 in FIR;*
- 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 case 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.

*To await the report, list again on
22.03.2022.*

15.12.2021
Sd/-
(VIVEK PURI)
JUDGE"

In pursuance of the said order, a report has been submitted by the Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Kosli to the Assistant Registrar Criminal of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Investigating Officer SI Rajesh Kumar, No.865/RWR, Rewari appeared and recorded his statement that there are total four accused persons namely Dharmender, Prem Lata, Uma and Priti in initial stage but later on accused Uma and Priti were found innocent.

3. The complainant has stated that the case FIR No.136 dated 15.05.2019, under Section 498-A, 323, 34 IPC, P.S. Kosli was registered, on basis of her complaint against both the accused and charge sheet was filed against them in this case, she has now entered into a compromise with above named accused out of her own free will and volition and with the assistance of other well meaning elders. Similarly, the accused Dharmender and Premlata have also stated that they have also compromised the matter with the complainant with the assistance of other well meaning elders and compromise is entered by them voluntarily.

4. Accused has been identified by their respective counsel, namely Sh. Anil Yadav, Advocate. In the present case besides recording the statements of the parties, I have also personally enquired from each of the parties i.e the complainant and the accused regarding the compromise and both of the parties have stated that they have voluntarily compromised the matter between them. So, in view of the statements made by the complainant Priyanka and accused Dharmender and Premlata, I am of the opinion that the compromise have been arrived at between the parties voluntarily, without coercion and pressure. It is also submitted that no PO proceeding is pending in the present case against the accused.

Submitted please.”

A perusal of the above report would show that it has been stated that the statements of 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 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 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 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. 136 dated 15.05.2019 under Sections 323, 34 and 498-A of the Indian Penal Code,1860 registered at Police Station Kosli, District Rewari (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 5th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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