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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-5861-2022 in/and
CRM-M-42829-2021 (O&M)
Date of decision : 22.02.2022

Rajesh Rana and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ranbir Singh Rawat, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Ajay Pal Singh, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-5861-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 16.09.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab,

appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Ajay Pal Singh, Advocate appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 16.09.2022 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 16.09.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.122 dated 01.07.2021 registered under Sections 420, 380, 120-B of the Indian Penal Code, 1860 and Sections 66 and 72-A of the IT Act, 2000 at Police Station Phase-1, District Mohali (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 17.11.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.122 dated 01.07.2021 registered under Sections 420, 380, 120-B of the Indian Penal Code, 1860 and Sections 66 and 72-A of the IT Act, 2000 at Police Station Phase-1, District Mohali (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 10.09.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted that in the present case, total number of accused are four whereas three petitioners have approached this Court for quashing of

*FIR on the basis of compromise as the compromise has been effected with the said three persons. Prayer has also been made that the FIR be quashed qua the petitioners. With respect to partial compromise being allowed, he has relied upon judgment of the Coordinate Bench of this Court in case titled **Atul Jindal Vs. State of Punjab and another, CRM-M-23347-2017, decided on 11.10.2017.** The relevant portion of the said judgment is reproduced hereinbelow:-*

“Prayer in the present petition is for quashing of the FIR No. 112 dated 13.7.2012 registered under Sections 420, 465, 468, 471, 120-B, IPC, registered at Police Station Mataur, SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of compromise.

Vide order dated 6.7.2017, parties were directed to appear before the trial Court for recording of their statements. Trial Court has submitted a report dated 22.8.2017 and as per the report, petitioner -Atul Jindal and complainant Kharaiti Lal have appeared before the trial Court and made their statements respectively that they have entered into a valid compromise and complainant has no objection in case the present FIR is quashed qua the petitioner -Atul Jindal. It is also reported that two persons were accused in this case namely the present petitioner- Atul Jindal & one Gurinder Singh and no person has been declared proclaimed offender .

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*Learned counsel for the petitioner relies upon a judgment in **2012 (12) SCC 401, Jayrajsinh Digvijaysinh Rana vs. State of Gujrat and another** to submit that in the offences under Sections 420, 467, 468, 471, 120-B IPC, the Hon'ble Supreme Court has quashed the FIR where the compromise was effected by one of the accused with*

the complainant.

It is further submitted that similar is the view taken by this Court in 2010 (1) RCR (Criminal) 256, Parambir Singh Gill vs. Malkiat Kaur; 2010 (3) RCR (Criminal) 660, Gurtej Singh vs. State of Haryana and another and 2007(3) RCR (Criminal) 479, Sarabjeet Singh vs. State of Punjab that out of more than one accused, if a compromise is effected by the complainant with one accused, proceedings qua one accused can be quashed by this Court in exercising the powers under Section 482 IPC.

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Accordingly, this petition is allowed. FIR No. 112 dated 13.7.2012 registered under Sections 420, 465, 468, 471, 120-B, IPC, registered at Police Station Mataur, SAS Nagar, Mohali and all the subsequent proceedings, arising therefrom are ordered to be quashed qua the petitioner.”

Notice of motion for 12.01.2022.

On asking of the Court, Mr. Karanbir Singh, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Ajay Pal Singh, Advocate appears on behalf of respondent No.2.

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.”

In pursuance of the abovesaid order, a report has been submitted by the Chief Judicial Magistrate SAS Nagar, Mohali. The relevant portion of the said report is reproduced hereinbelow:-

“xxx xxx

Power of Attorney for authorized persons of complainant Over and Above Software and Infrastructure Solution was filed along with authority letter. POA in favour of accused Rajesh Rana, Sunil Garg and Sandeep Singh also filed. The statement of the Bhadar Singh, authorized person of complainant Over and Above Software and Infrastructure Solution was recorded to the effect that the FIR No.122 dated 01.07.2021, Under Section 420, 380, 120-B IPC read with Section 66 and 72-A of the IT Act. 2000 Phase-I, Mohali was initially registered against accused Rajesh Rana and Sunil Garg. Thereafter accused Sandeep Singh and Baljinder Singh were also nominated in this case. The matter has been compromised between the complainant and three accused persons namely Rajesh Rana, Sunil Garg and Sandeep Singh. The copy of the compromise dated 10.09.2021 with accused Rajesh Rana is Mark A1. The copy of the compromise dated 10.09.2021 with accused Sunil Garg is Mark A2. The copy of the compromise dated 10.09.2021 with accused Sandeep Singh is Mark A3. The original authority letter of the company in favour of Bhadar Singh is mark A4. The compromise between the company and the three accused persons namely Rajesh Rana, Sunil

Garg and Sandeep Singh is. genuine, voluntarily and without any coercion or undue influence.

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In view of the above statements, the report is submitted hereunder:-

1. There are four accused persons in the present case namely Rajesh Rana, Sunil Garg, Sandeep Singh and Baljinder Singh. Initially FIR was registered against accused Rajesh Rana and Sunil Garg only. Thereafter accused Sandeep Singh and Baljinder Singh were also named in this case. The complainant has compromised the matter with only three accused - Rajesh Rana, Sunil Garg and Sandeep Singh.

2. From the statements of the parties to the petition before the Hon'ble High Court and the statement of IO it is revealed that no accused has been declared as Proclaimed Offender in this case.

3. The compromise between the parties is genuine. voluntary and without any coercion or undue influence.

4. From the statement of IO and the joint statement of accused persons namely Rajesh Rana, Sunil Garg and Sandeep Singh it is revealed that the accused are not involved in any other FIR.

5. From the statement of IO it is cleared that there is only one complainant/victim in the present case namely Over and above Software and Infrastructure Solutions having its registered office at Plot No.C. 139. Sector 72, SAS Nagar whose authorized person is Bhadar Singh.

The next date before the Hon'ble High Coun is 12.01.2022 Report is submitted for your kind perusal.

Thanking You.

Encl:

- 1. Original statement of authorized person Bhadar Singh of complainant.*
- 2. Original joint statement of accused persons namely Rajesh Rana, Sunil Garg and Sandeep Singh*
- 3. Original statement of IO ASI Gurpartap Singh.*
- 4. Certified copy of the zimni order dated 30.11.2021.*
- 5. Certified copy of zimni order dated 09.12.2021.*

Yours Sincerely,

*Sd/-Pamelpreet Grewal Kahal, PCS,
Chief Judicial Magistrate,
SAS Nagar, Mohali
UID No. PB0304”*

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the petitioners (accused) have been recorded in the case and both 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 the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are correct.

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 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**”, reported as **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**”, reported as **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”

As stated in the order dated 17.11.2021 passed by this Court, the present petition has been filed by three persons out of four accused and thus, is a case of partial compromise which is permissible as per the judgments which have been detailed in order dated 17.11.2021.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.122 dated 01.07.2021 registered under Sections 420, 380, 120-B of the Indian Penal Code, 1860 and Sections 66 and 72-A of the IT Act, 2000 at Police Station Phase-1, District Mohali (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

22.02.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No