

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-40160-2022

Date of decision:22.09.2022

Jagdeep Gulia and another

... Petitioners

Versus

U.T. Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kuldeep Sheoran, Advocate for the petitioners.

Mr. Y.S. Rathore, Addl. P.P., UT Chandigarh;
Mr. Sudha Singh, Advocate and
Mr. Yuvraj Rathore, Advocate.Mr. Gurminder Singh, Advocat for
Mr. Vineet Kumar, Advocate for respondent No.2.**VIKAS BAHL, J.(ORAL)**

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.182 dated 07.10.2016 under Sections 451, 380 and 120-B IPC, registered at Police Station West, Sector 11, Chandigarh (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise dated 28.08.2022 (Annexure P-2).

On 05.09.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing FIR No.182 dated 07.10.2016 registered under Sections 451, 380 and 120-B IPC at Police Station West, Sector 11, Chandigarh and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that there are three accused persons in the FIR, but only two petitioners have filed the present petition and 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 petitioners/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 Co-ordinate 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.*

Notice of motion for 22.09.2022.

On the asking of the Court, Kr. Yashwant Singh Rahtore, Additional Public Prosecutor, accepts notice on behalf of respondent No.1 and Mr. Vineet Kumar, appears and accepts notice on behalf of respondent No.2 and admits the factum of compromise.

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 05, 2022

*(VIKAS BAHL)
JUDGE”*

In pursuance to the said order, a report has been submitted by

Judicial Magistrate 1st Class, Chandigarh. The relevant portion of the said report is reproduced hereinbelow:-

- “i) In the present case FIR three persons namely Jagdeep Gulia, Krishan and Manoj Dhull are arrayed as accused.*
- ii) None of the accused is declared as Proclaimed offender.*
- iii) Compromise between complainant and accused persons namely Jagdeep Gulia and Krishan is valid and genuine and it is voluntarily effected between the said parties with their free consent and without any pressure, threat, coercion or undue influence from any quarter.*
- iv) As per statement of IO, accused persons are not involved in any other FIR or case.*

v) *As per statement of IO, Dr. Varun Malik S/o Shilak Malik is the only complainant/victim in the present case FIR.*

This report along with copies of statements of parties and annexures is submitted as desired by Hon'ble High Court vide its order dated 05.09.2022.

*Yours faithfully,
(Puneet Mohinia), PCS,
Judicial Magistrate 1st Class,
Chandigarh UID No.PB0497”*

A perusal of the above said report would show that the petitioners and 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.

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.182 dated 07.10.2016 under Sections 451, 380 and 120-B IPC, registered at Police Station West, Sector 11, Chandigarh (Annexure P-1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

22.09.2022

Ishwar

(VIKAS BAHL)
JUDGE

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