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

CRM-15697-2022 in/and
CRM-M-46871-2021 (O&M)
Date of decision : 05.05.2022

Payal Maini and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ruhani Chadha, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

CRM-15697-2022

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 21.09.2022 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 has submitted that he has no objection in case the present application is allowed and the date of hearing in the main case is preponed from 21.09.2022 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 21.09.2022 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 General Diary No.14 dated 28.08.2019 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 and Section 325 of IPC has been added later on at Police Station Division No.3, District Jalandhar in FIR No.80 dated 28.08.2019 registered under Sections 323 and 341 of IPC at Police Station Division No.3, District Jalandhar and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-3).

On 09.11.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of General Diary No.14 dated 28.08.2019 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 and Section 325 of IPC has been added later on at Police Station Division No.3, District Jalandhar in FIR No.80 dated 28.08.2019 registered under Sections 323 and 341 of IPC at Police Station Division No.3, District Jalandhar and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-3).

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

Notice of motion for 17.01.2022.

On asking of the Court, Mr. N.K. Banka, DAG, Punjab, 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 45 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 Additional Chief Judicial Magistrate, Jalandhar. The relevant portion of the said report is reproduced hereinbelow:-

“Keeping in view all aspects, statements of the both the parties and of I.O/SI Surinder Singh, the requisite information, as sought for, is submitted as under:

I) As per record & statement of SI Surinder Singh, only six persons namely Payal Maini, Sushil Kumar Maini, Kamini Maini, Suraj Maini and Parth Maini are arrayed as

accused in the present FIR and Ashwani Kumar was not arrayed as accused in this cross case.

II) None of the petitioners/accused has been declared proclaimed offender.

III) As per statements of parties, the compromise is genuine, voluntary and without any coercion or undue influence.

IV) As per statement of SI Surinder Singh, there is no involvement of accused persons in any other case.

V) As per the statement of SI Surinder Singh, there is only one victim/complainant i.e. Naval Wadhavan in the present cross case.

Report is submitted with regards,

Yours faithfully,

Sd/- Sushma Devi, PCS,

Addl. Chief Judicial Magistrate,

Jalandhar”

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 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.

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”

In view of what has been discussed hereinabove, the petition is allowed and General Diary No.14 dated 28.08.2019 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 and Section 325 of IPC has been added later on at Police Station Division No.3, District Jalandhar in FIR No.80 dated 28.08.2019 registered under Sections 323 and 341 of IPC at Police Station Division No.3, District Jalandhar 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.

05.05.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No