

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-47855-2021

Date of decision:28.09.2022

Mahipal and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Surender Pal, Advocate for the petitioners.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Suresh Ahlawat, Advocate for respondents No.2 to 4.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.31 dated 16.02.2021 registered under Sections 147, 149,323,452,506 of the Indian Penal Code, 1860 at Police Station Rajaund, District Kaithal (Annexure P-1) along with all the subsequent proceedings arising therefrom on the basis of compromise.

On 16.11.2021, this Court was pleased to pass the following order:-

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.31 dated 16.02.2021 registered under Sections 147, 149, 323, 452, 506 of the Indian Penal Code, 1860 at Police Station Rajaund, District Kaithal and all the subsequent 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.

Notice of motion for 20.01.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Mr. Suresh Ahlawat, Advocate appears

on behalf of respondent Nos.2 to 4.

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.*

(VIKAS BAHL)

16.11.2021

JUDGE”

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

Judicial Magistrate First Class, Kaithal. The relevant portion of the said report is reproduced hereinbelow:-

“4. Thereafter, vide separate statement, HC Amit Kumar No.38/KTL, Investigation Officer of the case now posted at Police Post Keorak, PS Sadar, Kaithal has stated that there are five persons in complainant party whose names are Mukesh Dutt, Om Dei, Santosh, Satyawan Balwan Dutt Sharma and six accused persons whose names are Mahipal, Rohtash, Bintu, Deepak alias Deepu Lal, Sumre, Sachin alias Jhandu. No accused has been declared Proclaimed Offender in the present case. Accused Mahipal is involved in other FIR no.238 dated 12.08.2021 under Sections 323,341,506 of IPC and 3(1)(r),3(1)(s) SC/ST Act, PS Rajaund, Kaithal. No FIR is pending against any accused except aforesaid accused.

5. The stage of this case is for arguments on the point of charge. The compromise is genuine, voluntary and without any pressure.

6. From the joint statement of parties duly identified by their learned counsels, the undersigned is satisfied that compromise arrived at between the parties is genuine one. The statements of parties have been recorded with their own free will, voluntarily and without any pressure of any kind whatsoever. I have also perused the proof of identity of parties and same is placed on record. I am of the considered view that the statements made by both the parties voluntarily and without any pressure of any kind. The compromise is genuine

*one and has been arrived at without any pressure of any kind whatsoever. It is further respectfully submitted that before recording the statements of parties, I have verified the identity of the parties from their respective counsel.
Submitted please.*

*Yours sincerely,
(Parmod Kumar)
J.M.F.C., Kaithal
(UID No.HR0478)”*

A perusal of the above said report would show that the petitioners and respondents No.2 to 4 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 respondents No.2 to 4 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.31 dated 16.02.2021 registered under Sections 147, 149,323,452,506 of the Indian Penal Code, 1860 at Police Station Rajaund, District Kaithal (Annexure P-1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

28.09.2022

Ishwar

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