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

CRM-8275-2022 in/and
CRM-M-47996-2021 (O&M)
Date of decision : 10.03.2022

Shahbaj Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Bhupinder Pal Kaur Brar, Advocate for the petitioner.

Mr. R.S. Khaira, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-8275-2022

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 26.09.2022 to an early date.

Learned counsel for the applicant-petitioner 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. R.S. Khaira, 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 26.09.2022 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 26.09.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.163 dated 29.09.2019 registered under Section 307 of the Indian Penal Code, 1860 and Sections 27/29 of the Arms Act at Police Station Arniwala, District Fazilka and all the subsequent proceedings arising therefrom on the basis of compromise.

On 16.11.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.163 dated 29.09.2019 registered under Section 307 of the Indian Penal Code, 1860 and Sections 27/29 of the Arms Act, 1959, at Police Station Arniwala, District Fazilka (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for the petitioner inter alia contends that in the present case, Section 307 of IPC has been wrongly added inasmuch as the same has been mentioned in the FIR itself without taking any medical opinion that any injury was dangerous to life and there is only one injury which has been attributed and that is also on the leg.

Notice of motion for 20.01.2022.

On asking of the Court, Mr. N.K. Banka, Deputy Advocate General, 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 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 Additional District and Sessions Judge, Fazilka. The relevant portion of the said report is reproduced hereinbelow:-

“Accordingly, the requisite report as desired by Hon'ble High Court is submitted as under:-

- 1. The present FIR was registered at the instance of complainant Karanbir Singh against Shahbaj Singh, Balkaran Singh and Paramjit Kaur. However, Balkaran Singh and Paramjit Kaur have not been challaned in this case.*
- 2. As per statement of Investigating Officer ASI Hardev Singh none of the accused has been declared proclaimed*

offender.

3. Statements of complainant Karanbir Singh as well as accused Shahbaj Singh have been recorded, whereby they stated that they have arrived at compromise Ex.C1 without any undue influence, coercion and pressure. In the said back ground keeping in view the statements so suffered by the complainant as well as accused, it seems that the compromise so effected between the parties is genuine without any sort of undue influence or coercion.

4. As per statement of Investigating Officer ASI Hardev Singh, the accused persons are not involved in any other criminal case.

5. According to statement of Investigating Officer ASI Hardev Singh only injured in this case is Karanbir Singh i.e... complainant.

The report is thus submitted please. (copy of statements and Ex.C1 are enclosed herewith).

Thanking you,

Yours faithfully,

Enc. As above.

Sd/-(Vishesh),

*Addl. District & Sessions Judge,
Fazilka.UID No.PB0228”*

A perusal of the said report would show that initially, there were three accused but however, Balkaran Singh and Paramjit Kaur had not been challaned and accordingly, the present petition has been filed by one petitioner who has been challaned under Section 173 of Cr.P.C..

A perusal of the said report would also 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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and there are no other cases pending against the petitioner. 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 FIR No.163 dated 29.09.2019 registered under Section 307 of the Indian Penal Code, 1860 and Sections 27/29 of the Arms Act at Police Station Arniwala, District Fazilka and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

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

10.03.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No