

**CRM-M-50215-2021 AND
CRM-M-49230-2021**

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

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**CRM-M-50215-2021 AND
CRM-M-49230-2021
Decided on :29.04.2022**

Vijay Kumar Dhiman

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Jatin Sharma, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Sushil Sharma, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

By virtue of this common order, this Court proposes to dispose of two petitions bearing No. CRM-M-50215-2021 and CRM-M-49230-2021 filed by the same petitioner i.e. Vijay Kumar Dhiman. The first petition i.e. CRM-M-50215-2021 has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in criminal complaint bearing NI ACT/79/2017 dated 31.05.2017 under Section 138 of the Negotiable Instruments Act, 1881. The second petition i.e. CRM-M-49230-2021 has been filed 482 Cr.P.C. for quashing of criminal compliant No. NI ACT/79/2017 filed by the complainant as as well as subsequent impugned order dated 22.05.2019 whereby the

petitioner has been declared as proclaimed person and all subsequent proceedings arising therefrom on the basis of the compromise.

With the consent of all the parties, the case bearing No. CRM-M-50215-2021 is taken as the lead case and thus, the facts have been taken from the said case.

On 11.01.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conferencing.

Pursuant to the previous orders passed, Mr. Sushil Sharma, Advocate, appears for respondent no. 2 and submits that the matter has indeed been compromised between the parties.

Learned counsel for the petitioner submits that in terms of the orders passed on 01.12.2021 in CRM-M-50215-2021, the petitioner has paid Rs. 25,000/- and he would place the receipt on record.

Adjourned to 29.04.2022.

In the meanwhile, respondent no. 2 would appear before the learned Area Magistrate to record his statement in terms of any compromise reached between the parties, up-to 31.03.2022, with that court to thereafter send its report as to whether, in its opinion, the matter has been indeed compromised to the satisfaction of respondent no. 2 without any coercion or influence, or otherwise.

Interim order to continue till the next date of hearing.

Learned counsel for the petitioner would place on record the receipt of the money deposited pursuant to the last order passed.

A photocopy of this order be placed on the file of the other connected case.”

In pursuance of the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Kalka to the Registrar of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“REPORT

A copy of order dated 11.01.2022 passed by Hon'ble High Court of Punjab and Haryana, Chandigarh in CRM-M-50215-2021 and CRM-M-49230-2021 was received in this Court being learned Area Magistrate, vide which this Court was directed to submit a report regarding the compromise after recording the statement of respondent no. 2, as to whether, in its opinion, the matter has been indeed compromised to the satisfaction of respondent no. 2 without any coercion or influence, or otherwise.

2. As per directions of Hon'ble High Court, on dated 11.01.2022 complainant Amit Kaushik appeared and got recorded his statement to the effect that he has compromised the matter with the accused and accused has given him Rs.2,40,000/- as full and final payment. He has received full payment from the accused and nothing is pending. The compromise is genuine and is without any coercion or influence, or otherwise. Compromise is complete and good in the eyes of law. Therefore, report be sent to your goodself.”

A perusal of the above report would show that it has been stated that the statements of Complainant as well as the petitioner have

been recorded in the case and they 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 is not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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”, 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. XXX---XXX"

Keeping in view the abovesaid facts and circumstances, moreso, the fact that the compromise has been effected between the parties, both the petitions are allowed and order dated 01.12.2021 passed in CRM-M-50215-2021 is made absolute and the criminal complaint bearing No. NI ACT/79/2017 dated 31.05.2017 under

Section 138 of the Negotiable Instruments Act and all subsequent proceedings arising therefrom including the summoning order dated 22.05.2019 (Annexue P-5) declaring the present petitioner as proclaimed offender are set aside.

(VIKAS BAHL)
JUDGE

April 29th, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No