

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50625-2021

Date of decision : 04.05.2022

Ashwani Sharma

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Parminder Singh, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

Ms.Navpreet, Advocate for
Ms. Kamlesh, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.0007 dated 27.01.2018 registered under Sections 323, 498-A IPC registered at Police Station Women Police Station, District Karnal and all other consequential proceedings arising therefrom on the basis of compromise.

On 03.12.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“Petitioners are seeking quashing of FIR bearing No. 07 dated 27.01.2018, under Sections 323-498-A IPC, registered at Women Police Station District Karnal and all the subsequent proceedings arising therefrom on the basis of compromise having been effected between the parties.

It has been stated that the matrimonial dispute has been amicably settled between the parties and a compromise has been

effected between them.

Notice of motion.

Mr. Zorawar Singh Chauhan, DAG, Haryana, accepts notice on behalf of the respondent-State.

Ms. Kamlesh, Advocate has put in appearance on behalf of respondent No.2 and filed her power of attorney and has acknowledge the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/Trial Court for recording their statements with regard to compromise/settlement on 12.01.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any date convenient to the Court concerned.

The learned 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 in FIR;*
- 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 case 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.*

To await the report, list again on 08.03.2022.

(VIVEK PURI)
JUDGE

03.12.2021”

In pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, Karnal. The relevant portion of the said report is reproduced hereinbelow:-

“On the basis of statements of petitioner/accused Ashwani Sharma respondent Rajni undersigned is of the view that compromise between them is valid and has been effected without there being any kind of influence or coercion. It is further submitted that as per order dated 03.12.2021 in CRM-M 50625-2021, the following facts are reported as follows:-

(i & ii) A perusal of the records of the case reveal that in the present case, there is only accused namely Ashwani Sharma and he was present for recording his statement qua compromise and no proceedings qua proclaimed offender is initiated against accused Ashwani Sharma.

(iii) Yes, the compromise between the parties is valid and genuine and has been effected without there being any kind of influence or coercion.

(iv) No other criminal case is pending against the accused.

(v) As per the statement of IO/SI Sunita Devi there is no other victim/complainant except the Rajni in the present FIR.

The same is submitted as desired, please.

Thanking you,

Yours Sincerely,

(Saravpreet Kaur)”

A perusal of the above said report would show that the petitioner and respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender 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 petitioner.

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

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.0007 dated 27.01.2018 registered under Sections 323,

498-A IPC registered at Police Station Women Police Station, District Karnal and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

May 04, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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