

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

CRM-M-47317-2022

Date of decision : 03.11.2022

Rahul @ Rahulraj Panghal and others

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: None.

VIKAS BAHL, J. (ORAL)

Today, the Lawyers have decided to abstain from appearing in the Court because of the call given by the Bar Association.

This is a first petition under Section 482 of Cr.P.C. for quashing of FIR No.0485 dated 21.08.2022 registered under Sections 147, 149, 323, 341, 506 IPC at Police Station Tosham, District Bhiwani and all the subsequent proceedings arising therefrom on the basis of compromise.

On 14.10.2022, this Court was pleased to pass the following order:-

“Petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of FIR No. 0485, dated 21.08.2022 (Annexure P-1), under Sections 147, 149, 323, 341 and 506 IPC, registered at Police Station Tosham, District Bhiwani, and all the consequential proceedings arising therefrom, on the basis of the compromise (Annexures P-2), effected between the parties.

Learned counsel for the petitioners submits that in regard to the same incident in CRM-M-46926-2022, already co-ordinate Bench of

this Court vide order dated 12.10.2022 has issued notice of motion for 03.11.2022 with a direction to the parties for recording their respective statements qua compromise before Illaqa Magistrate/Trial Court. He further submits that both the parties have amicably resolved their dispute through a compromise (Annexure P-2). He further submits that if, proceedings arising from the aforementioned FIR are quashed, both the parties will live their lives peacefully.

Notice of motion.

On asking of the Court, Mr. Vikas Bhardwaj, AAG, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State.

Mr. Mohit Nehra, appears on behalf of respondent No. 2 and admits execution of the compromise (Annexure P-2).

The affected parties are directed to appear before the learned Trial Court/Illaqa Magistrate within a period of three weeks from today or any other date convenient to the concerned Court, who shall record their respective statements with regard to the compromise and submit a detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. Total number of persons arrayed as accused in the case;*
- ii. Whether all the accused and complainant / victims are party to compromise;*
- iii. Whether any accused has been declared as a proclaimed offender or any such proceedings have been initiated or pending decision;*
- iv. Stage of the trial/proceedings; and*
- v. Whether the compromise is genuine, voluntary, and without any coercion or undue influence. To come up on 03.11.2022, awaiting report.*

Reply by the respondent-State, if any, be filed on or before the next date of hearing .

To be heard alongwith CRM-M-46926-2022.

October 14, 2022. ”

In pursuance of the abovesaid order, a report has been submitted by the Sub Divisional Judicial Magistrate, Tosham. The relevant portion of the said report is reproduced hereinbelow:-

“Accordingly, as per record, the information with regard to five points mentioned above, as desired by the Hon'ble High Court is as under:

- i. The total number of persons arrayed as accused in the present case are five (5) and out of them one accused namely Rahul alias Bholu son of Jogender, resident of village Bagawata has been joined in the investigation of this case*
- ii. Four out of five accused and the sole complainant are party to the compromise;*
- iii. As per report of Investigating Officer no accused has been declared as a Proclaimed Offender or any such proceedings have been initiated or pending decision.*
- iv. The present case is at Investigation stage.*
- v. The compromise is genuine, voluntary and without any coercion or undue influence.”*

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 has further been stated that in all there are five accused persons out of which four persons have filed the present petition.

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.

The Hon'ble Supreme Court in a case titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as ***2012 (12)***

SCC 401, has held that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

The Co-ordinate Bench of this Court in the judgment dated 04.07.2019 passed in CRM-M-16318-2018 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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.0485 dated 21.08.2022 registered under Sections 147, 149, 323, 341, 506 IPC at Police Station Tosham, District Bhiwani and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

03.11.2022

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No