

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48279-2022

Date of decision : 01.12.2022

Sanjay Kumar and another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kushager Goyal, Advocate
for the petitioners.

Mr. Vishal Malik, DAG, Haryana.

Mr.Lalit Kumar Narang, Advocate
for respondent nos.2 to 4.

VIKAS BAHL, J.(ORAL)

This is a second petition under Section 482 Cr.P.C. praying for quashing of FIR No.842 dated 24.10.2017, registered under Sections 323, 34 and 452 IPC (Section 325 IPC has been added later on), at Police Station Sirsa City, District Sirsa and all other consequential proceedings arising therefrom on the basis of compromise.

On 28.10.2022, this Court was pleased to pass the following order:-

“This is a second petition under Section 482 Cr.P.C. praying for quashing of FIR No.842 dated 24.10.2017, registered under Sections 323, 34 and 452 IPC (Section 325 IPC has been added later on), at Police Station Sirsa City, District Sirsa and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners, inter alia, contends that the present petition is a second petition as the earlier petition

was dismissed as withdrawn on 23.09.2022 with liberty to implead all the necessary parties in the petition and to compromise with all the necessary parties and that the present petition has been filed after impleading all the necessary parties and after entering into the compromise with all the parties.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 01.12.2022.

On the asking of the Court, Mr. Dhruv Sihag, AAG, Haryana, accepts notice on behalf of respondent No.1 and Mr. Lalit Kumar Narang, Advocate, appears and accepts notice on behalf of respondents No.2 to 4 and admits the factum of compromise.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month.

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.*

October 28, 2022 ”

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

“Queries were also put to the parties regarding the genuineness of the compromise during the proceedings. During query, parties have replied that the compromise has been entered into with their free Will without any threat, coercion or undue influence from any corner.

It is submitted that there is only one complainant Onkar

Singh and two injured Bhupinder Kaur and Atam Kaur in the present FIR and there is no other accused other than Sanjay Kumar, Shiv Kumar and juvenile Nikhil (juvenile Nikhil already convicted vide order dated 24.08.2021 in the present FIR in case CHI no.106/2018). As per statements of parties and IO, both accused have never been declared proclaimed offender and accused Sanjay Kumar is never involved in any other case. However, as stated by Investigating Officer, accused Shiv Kumar was involved in case FIR no. 549 dated 20.07.2015, u/s 389/356,506 read with section 34 IPC, P.S. City Sirsa, in which he has been acquitted vide judgment dated 24.04.2018 passed by the court of learned Chief Judicial Magistrate, Sirsa.”

A perusal of the above said report would show that the petitioners and respondent nos.2 to 4 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, voluntary and out of free will.

Learned counsel for the petitioners as well as learned counsel for respondent nos.2 to 4 have submitted that other than the present two petitioners, Nikhil is the third accused in the present case and compromise has been effected only with the two present petitioners. Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as ***2012 (12) SCC 401***, to contend 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.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2015 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition

qua the petitioners only although, the matter had not been compromised between all the parties.

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 respondent nos.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.842 dated 24.10.2017, registered under Sections 323, 34 and 452 IPC (Section 325 IPC has been added later on), at Police Station Sirsa City, District Sirsa and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 01, 2022.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No