

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-53308-2021

Date of decision : 15.02.2022

Amar Nath and others

... Petitioners

Versus

State of UT, Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Saransh Sabharwal, Advocate
for the petitioners.

Mr.Anupam Bansal, Addl.P.P. for U. T. Chandigarh.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.03 dated 08.01.2016 registered under Sections 452, 427 and 34 IPC at Police Station Sector 3 (North), District UT Chandigarh and all other consequential proceedings arising therefrom on the basis of compromise.

On 20.12.2021, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.03 dated 08.01.2016 (Annexure P-1) registered under Sections 452, 427, 34 IPC at Police Station Sector 3 (North), District UT, Chandigarh and all other consequential proceedings arising therefrom on the basis of compromise dated 30.06.2021 (Annexure P-2) and affidavit dated 17.09.2021 (Annexure P-3).

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

Notice of motion.

On the asking of the Court, Mr. Anupam Bansal, Addl.P.P. accepts notice on behalf of respondent no.1.

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.*

Adjourned to 25.01.2022.”

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

“After going through the statements given by complainant and accused and IO/SHO, this Court is of the considered opinion that Compromise between the parties is valid and genuine and it is voluntarily effected between the parties with their free consent and without any pressure, threat, coercion or undue influence from any quarter. As per record it is hereby intimated that:

- 1. Three persons namely Amar Nath @ Amru, Hem Raj*

and Kirat Singh are arrayed as accused in this FIR.

2. No accused is declared as Proclaimed offender.

3. Compromise is genuine, voluntary and without any coercion or undue influence.

4. No accused is involved in any other case or FIR.

5. Statement of SHO Juldan Singh recorded as per his statement one complainant namely Swaran Singh and three accused persons namely Amar Nath @Amru, Hem Raj and Kirat Singh are accused in this case/FIR.

This report along with copies of statements of parties and annexures is submitted as desired by Hon'ble High Court vide its order dated 20.12.2021.

Yours faithfully

*(Puneet Mohinia), PCS,
Judicial Magistrate Ist Class,
Chandigarh UID No.PB0497”*

A perusal of the above said report would show that the petitioners and respondent no.2 have appeared and have suffered statements with respect to the compromise, which has been found to be voluntary, genuine, without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offender in the present case.

Learned counsel for the U.T. Chandigarh has stated that he has no objection in case the FIR is quashed on the basis of compromise.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the learned 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

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 feel that the same was 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”

In view of what has been discussed hereinabove, this petition is

allowed and FIR No.03 dated 08.01.2016 registered under Sections 452, 427 and 34 IPC at Police Station Sector 3 (North), District UT Chandigarh and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

February 15, 2022.
Davinder Kumar

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