

122

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

CRM-6640-2022 in/and
CRM-M-42352-2019 (O&M)
Date of decision : 03.03.2022

Sunil Verma and others

...Petitioners

Versus

Union Territory, Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gagandeep Jammu, Advocate for the petitioners.

Mr. Amit Kumar Goyal, APP, UT Chandigarh.

Mr. Prateek Sodhi, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-6640-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 23.09.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Amit Kumar Goyal, APP, UT

Chandigarh, appears and accepts notice on behalf of the non-applicant/UT Chandigarh and Mr. Prateek Sodhi, Advocate appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 23.09.2022 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 23.09.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.165 dated 22.06.2016 registered under Sections 341, 307, 34 of the Indian Penal Code, 1860 at Police Station Sector 39, Chandigarh and all the subsequent proceedings arising therefrom on the basis of compromise.

On 01.04.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

CRM-9234-2021

Respondent No.2 has filed the present application for preponement of the date i.e. 12.05.2021 fixed in case CRM-M-42352-2019.

Learned Counsel for the petitioners and State Counsel have no objection if the application is allowed.

In view of the reasons mentioned in the application and no objection, the application is allowed and the main case is pre-poned to today itself.

CRM-M-42352-2019 (O&M)

The petitioners have filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.165 dated 22.06.2016 registered under Sections 307 and 341 read with Section 34 of the Indian Penal Code, 1860 at Police Station Sector 39, Chandigarh and all subsequent proceedings arising therefrom on the basis of compromise dated 21.09.2019.

Learned Counsel for respondent No.2 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 08.04.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. The trial Court/Illaq Magistrate is directed to submit a report before 12.05.2021 containing the following information:-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any of the 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. Current stage of the case.*

The trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply to the petition by respondent No.1-U.T., Chandigarh, if any, be filed on the date of hearing fixed, if so desired.

01.04.2021

Sd/- (ARUN KUMAR TYAGI)
JUDGE ”

In pursuance of the abovesaid order, a report has been submitted by the Additional Sessions Judge, Chandigarh. The relevant portion of the said report is reproduced hereinbelow:-

“In this regard, it is humbly submitted that on 08.04.2021 statements of complainant Dinesh Midha and the accused persons recorded. On 12.04.2021 statement of the Investigating Officer also recorded. (Photocopies of the statements enclosed). It is further submitted that there are four persons arrayed as: accused. None of them is Proclaimed Offender. The compromise is genuine, voluntary and without any coercion or undue influence. Only one accused namely Sunil Verma was involved in another case FIR No.66/2016, PS 39, Chandigarh and the same has been quashed by the Hon'ble High Court in the year 2019. On 20.09.2019, the case was fixed for defence evidence, if any and for arguments. Thereafter, on 10.10.2019 as the accused approached the Hon'ble High Court for compromise while filing a petition under Section 482 CrPC, the case remained fixed for awaiting further orders of the Hon'ble High Court. Thus, the current stage of the case was for awaiting further orders of the Hon'ble High Court.

Report is accordingly submitted.

Thanking you,

Yours faithfully,
Sd/- (Anshu Shukla)
Additional Sessions Judge,
Chandigarh (HR0080)”

Learned counsel for the petitioners as well as respondent No.2 have submitted that in the present case, a perusal of the MLR would show

that respondent No.2-Injured was admitted in the Hospital on 22.06.2016 and was discharged on 23.06.2016 i.e. within a period of one day. It is further submitted that in the MLR, it has been remarked in the injuries sustained, the assault was "Mild". It has further been highlighted that in the nature of injury as well as type of injury, initially, it was mentioned as simple and blunt and thereafter, there is cutting on the same and the said two entries have been subsequently changed. It is also submitted that the Doctor has been examined and in the cross-examination of the said Doctor, it has been admitted by the said Doctor that on the said cutting, there is no signature, although, he has voluntarily tried to explain the said fact. From the abovesaid fact, and the medical evidence, it prima facie appears that offence under Section 307 of IPC is not made out in the present case.

Learned counsel for the petitioners and respondent No.2 have further submitted that petitioner No.1 is the brother-in-law of respondent No.2 and petitioner No.4 is also relative of petitioner No.1 and on account of the present compromise, there would be peace and amity in the family. It is also submitted that there were several disputes between the parties and in case, the present FIR is quashed on the basis of compromise, then all the disputes would be resolved between the parties.

A perusal of the report as reproduced above 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 is further stated that the statement of the complainant has

been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against them. Learned counsel for the UT Chandigarh, as per instructions has stated that these facts are correct.

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 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**”, 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.165 dated 22.06.2016 registered under Sections 341, 307, 34 of the Indian Penal Code, 1860 at Police Station Sector 39, Chandigarh and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

03.03.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No