

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

235

CRM-M-53627-2021
Decided on : 21.02.2022

Rajesh and others

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sandeep Kumar Rana, Advocate
for the petitioners.

Mr. Munish Sharma, Asst. A.G. Haryana.

Mr. Vinod Pundir, Advocate for
Mr. J. P. Rana, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 4 dated 07.01.2020 under Sections 323, 34 and 506 of the Indian Penal Code, 1860 registered at Police Station Chhainsa, District Faridabad (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 22.12.2021, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.4 dated 07.01.2020 registered under Sections 323, 34, 506 of the Indian Penal Code, 1860 at Police Station Chhainsa, Faridabad, District Faridabad (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 01.11.2021 (Annexure P-2).

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

Notice of motion for 31.01.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Mr. J.P. Rana, Advocate appears on behalf of respondent Nos.2 and 3.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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.”*

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Faridabad to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Respected Sir,

The undersigned respectfully submits that in pursuance of the order passed by the Hon'ble High Court dated 5.10.2021. the report is as under:

i) Number of persons arrayed as accused?

Report: Three persons are arrayed as accused in this case.

ii) Whether any accused is proclaimed offender?

Report: As per the statement of SHO concerned, none of the accused is or has been declared proclaimed offender.

iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Report: In the considered opinion of the undersigned, the compromise so effected is for the amicable settlement of the dispute and was effected without any external pressure, coercion or force and is a valid compromise.

iv) Whether the accused persons are involved in any other FIR or not?

Report: As per the statement of SHO concerned, none of the accused persons are involved in any other FIR.

v) 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?

Report: As per the statement of SHO concerned, in the present case there are two victims namely Rajeev and Sanjay. Sanjay is the complainant also.

Original statements of the parties Dt. 06.01.2022 as well as original statement of the SHO, are enclosed herewith for kind perusal of the Hon'ble High Court. The requisite report is submitted herewith for information and necessary action.

Thanking you."

In addition to the above, order dated 06.01.2022 passed by the Judicial Magistrate 1st Class, Faridabad is reproduced hereinbelow:-

“In pursuance of the orders of the Hon'ble Punjab & Haryana High Court dated 22.12.2021 passed in CRM-M-53627 of 2021, the parties i.e. complainant, victim and accused persons appeared to get their statements recorded regarding compromise. The parties were specifically asked whether they want to get the compromise effected. They have replied in affirmative. Their statements were recorded in court whereby complainant and victim submitted that compromise is effected between them and accused persons and they have no objection if the FIR in question is quashed by the Hon'ble High Court. Similarly, the accused have accepted the fact of compromise and submitted that compromise so effected is out of their free will and for amicable settlement of the dispute.

In the considered opinion of the court. the compromise/Settlement so effected is out of the free will of the parties and is not because of any external pressure or coercion and is a valid compromise.

Report regarding the compromise be sent to the Hon'ble High Court through the office of learned District & Sessions Judge, Faridabad.

Now case is adjourned to 3.2.2022 for awaiting order from Hon'ble High Court.”

A perusal of the said report and the order reproduced hereinabove would show that 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 none of the petitioners were declared proclaimed offender in the present case and are not involved in any other FIR.

Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent Nos. 2 and 3 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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. XXX---XXX"

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 4 dated 07.01.2020 under Sections 323, 34 and 506 of the Indian Penal Code, 1860 registered at Police Station Chhainsa, District Faridabad (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

February 21st, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No