

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CRM-M-47622-2019
Decided on : 08.04.2022

Bharat Bhushan and others

. . . Petitioners

Versus

State of U.T., Chandigarh and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Gagandeep Toni, Advocate
for the petitioners.

Mr. Sumit Jain, Addl. P.P., U.T., Chandigarh.

Mr. Vikrant Rana, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 149 dated 14.09.2019 under Sections 323, 452, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Maloya, U.T., Chandigarh (Annexure P-2) and all subsequent proceedings arising on the basis of the compromise.

On 25.02.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioners while referring to Annexure P-2 has contended that a compromise has been effected between the parties and prayed for quashing of FIR No.149 dated 14.09.2019 registered under Sections 323, 452 and 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Maloya, U.T., Chandigarh and all subsequent proceedings arising therefrom.

Notice of motion was issued vide order dated 07.11.2019.

Mr. G.D.S. Wasu, Addl. P.P., U.T., Chandigarh has put in appearance on behalf of respondent No.1-U.T., Chandigarh.

Mr. Vikrant Rana, Advocate has appeared and filed his power of attorney on behalf of respondent No.2 and has admitted the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 02.03.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing i.e. 28.03.2020 containing the following information :-

- 1. Number of persons arrayed as accused in FIR.*
- 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 case or not.*
- 5. Current stage of the case.*

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

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.

25.02.2020

(ARUN KUMAR TYAGI)
JUDGE”

In pursuance of the said order, a report has been submitted
by the Judicial Magistrate 1st Class, Chandigarh to the Registrar General

of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“4. Perusal of files shows that in instant case three persons namely Bharat Bhushan, Himanshu and Abhishek have been arrayed as accused and Naresh Kumar is the only affected/aggrieved party, who has been arrayed as complainant. As per judicial record, no accused has been declared Proclaimed Offender in instant FIR. Presently, the case is pending for hearing arguments on point of framing of charge against accused. The current stage of the case is consideration on charge. Since, the matter has been compromised by complainant Naresh Kumar with the accused namely Bharat Bhushan, Himanshu and Abhishek, voluntarily, without any pressure, coercion or threat from any side, who has no objection in quashing of FIR against accused person on the basis of Compromise Deed dated 23.10.2019 Ex.C1, therefore, the compromise is complete and appears to be good in the eyes of law. Therefore, the report as sought by your honour is being sent for your kind and esteemed perusal.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioner 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 case.

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

Learned counsel for respondent No. 2 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. 149 dated 14.09.2019 under Sections 323, 452, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Maloya, U.T., Chandigarh (Annexure P-2) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

April 8th, 2022

Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No