

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

266

CRM-M-53300-2019
Decided on : 28.03.2022

Saurabh Sharma

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Rajesh Bhatheja, 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. 41 dated 11.06.2019 under Sections 498-A and 323 of the Indian Penal Code, 1860 registered at Police Station Shahpur Kandi, District Pathankot (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

When the matter came up before a coordinate Bench of this Court on 04.03.2020, the following order was passed:-

“Prayer in this application filed under Section 482 Cr.PC is for grant of one more opportunity so as to enable the petitioner as well as respondents No.2 and 3 to get their statements recorded before the Illaqa Magistrate/trial Court in terms of order dated

16.12.2019 passed by this Court in the main case.

Learned counsel for the applicant-petitioner submits that since the mother of petitioner was unwell, the statements of the parties could not be recorded which necessitated the application to file the present application.

Notice of the application.

On asking of this Court, Mr. Hittan Nehra, Addl. A.G., Punjab accepts notice of the application.

For the reasons stated in the application which is supported by an affidavit of the petitioner, the same is allowed and the parties are granted one more opportunity to get their statements recorded before the Illaqa Magistrate/trial Court in terms of order dated 16.12.2019 passed by this Court in the main case, however, subject to payment of costs of Rs.5,000/- to be paid by the petitioner to the District Legal Services Committee, Pathankot.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 26.03.2020.

Report is awaited for 22.05.2020 i.e. the date already fixed in the main case. ”

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

“Both the parties have been identified by their respective counsels and their photographs are also taken on record.

5. The statements were recorded on 06.03.2020 in lieu of earlier order dated

16.12.2019 and order dated 04.03.2020 was brought to the notice afterwards when received through proper channel on 16.03.2020. Since, there was only prayer regarding extension of time in second order the statements recorded on 06.03.2020 are sent. However, the cost of Rs. 5000/- was got deposited from the petitioner on 18.03.2020.

6. From the statements of parties, it appears that parties have effected compromise with each other voluntarily and without any pressure or coercion. No accused is declared proclaimed person in this case. No other accused as per investigation report is involved in this occurrence nor any other victim. Accused Sourav Sharma suffered statement that no other FIR registered against him. The compromise appears to be genuine and voluntarily entered by the parties. Rs. 5000/- cost is deposited in DLSA by the petitioner as directed by the Hon'ble High Court vide order dated 04.03.2020.”

A perusal of the said report 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 petitioner has submitted that the petitioner was never declared proclaimed offender in the present case and is not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the said fact is correct.

Mr. Rajesh Bhatheja, Advocate has put in an appearance on behalf of respondent Nos. 2 and 3 and filed his power of attorney, same is taken on record. He 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 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”, 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. 41 dated 11.06.2019 under Sections 498-A and 323 of the Indian Penal Code,1860 registered at Police Station Shahpur Kandi, District Pathankot (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioner.

March 28th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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