

117

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

CRM-8181-2022 in/and
CRM-M-54345-2019 (O&M)
Date of decision : 11.03.2022

Gurtej

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashish Grewal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Ravi Malik, Advocate for respondent Nos.2 and 3.

VIKAS BAHL, J. (ORAL)

CRM-8181-2022

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 27.07.2022 to an early date.

Learned counsel for the applicant-petitioner 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. Praveen Bhadu, AAG, Haryana,

appears and accepts notice on behalf of the non-applicant/State of Haryana and Mr. Ravi Malik, Advocate appears on behalf of non-applicant/respondent Nos.2 and 3 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 27.07.2022 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 27.07.2022 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.145 dated 07.12.2017 registered under Sections 279/337/338/427 of the Indian Penal Code, 1860 at Police Station Jathlana, District Yamuna Nagar, Haryana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 19.12.2019, a Coordinate Bench of this Court was pleased to pass the following order:-

“The present petition has been filed for quashing of FIR No.145 dated 07.12.2017 registered under Section(s) 279, 337, 338, 427 IPC at Police Station Jathlana, District Yamuna Nagar and all subsequent proceedings on the basis of compromise.

Notice of motion 17.04.2020.

On asking of the Court, Mr. S. P. Singh, DAG, Haryana, accepts notice on behalf of the State. Mr. Ravi Malik, Advocate, accepts notice on behalf of the

complainant-respondent(s) No.2 & 3.

Learned counsel for the petitioner is directed to supply copy of the paper book to the counsel opposite during course of the day.

Let the parties now appear before the Trial Court/Illaq Magistrate on 22.01.2020 or any other date convenient to the Court for recording their statements with regard to compromise. The Trial court/Illaq Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The Trial Court/Illaq Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties. It shall also be reported whether petitioner has been declared Proclaimed Offender in this case or not.

19th December, 2019

Sd/-(RAJBIR SEHRAWAT)

JUDGE ”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri.

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

“Sir,

With reference to the subject cited above, I have the honour to submit that in pursuance of order dated 19.12.2019 passed by the Hon'ble High Court in Criminal Misc. no.M- 54345-2019, parties i.e. complainant and accused person appeared before the undersigned on 28.01.2020 on which date they made statement that they have compromised the matter. Complainant Surender Kumar and injured Himanshu do not want to take any action

against the accused in the present case. In FIR one accused namely Gurtej has been arrayed as an accused and the accused has not been declared proclaimed offender in the instant case. The parties were also orally questioned by the undersigned regarding genuineness and validity of the compromise and they stated that they have entered in the said compromise voluntarily by their own will. Both the parties were identified by their counsel, respectively. After going through the statements of the parties, I am of the view that parties have actually entered into a compromise by their free-will and the said compromise is genuine. Copy of the statements of the parties are enclosed herewith.

Thanking you,

Yours faithfully,

Sd/- (Sandeep Kaur)”

A perusal of the said report 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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions has stated that this fact is correct.

Learned counsel for respondent Nos.2 and 3 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.145 dated 07.12.2017 registered under Sections 279/337/338/427 of the Indian Penal Code, 1860 at Police Station Jathlana, District Yamuna Nagar, Haryana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

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

11.03.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No