
(2021) 12 P&H CK 0073

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 39830 Of 2021

Pargat And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 21-12-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482

Indian Penal Code, 1860 — Section 147, 148, 149, 323, 324, 326, 341, 506

Citation : (2021) 12 P&H CK 0073

Hon'ble Judges : Vikas Bahl, J

Bench : Single Bench

Advocate : Rahul Vats, Manish Dadwal, B.S. Saroha

Final Decision : Allowed

Judgement

Vikas Bahl, J

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.185 dated 31.07.2021 registered under Sections 148, 149, 323, 324, 341 & 506 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station City Ratia, District Fatehabad, Haryana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

On 27.09.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

"By filing this petition, quashing of FIR No. 185 dated 31.7.2021 registered under FIR No. 185 dated 31.7.2021 registered under Sections 148, 149, 323, 324, 341, 506 IPC (Section 326 IPC added later on) at Police Station City Ratia, District Fatehabad, Haryana has been sought on the basis of compromise.

Notice of motion.

Mr. Surender Singh, AAG Haryana and Mr. B.S. Saroha, Advocate accept notice

on behalf of respondent No. 1 and respondents No. 2 and 3 respectively.

Parties may appear before learned trial Court/Illaq Magistrate concerned on 2.11.2021 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said court. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report :

- i) regarding genuineness and voluntary nature of compromise ;
- ii) whether all accused/petitioners are appearing before the Court or are on bail; and
- iii) whether any other proceeding is pending against the accused/ petitioners.

Adjourned to 21.12.2021.

Sd/-(HARINDER SINGH SIDHU)

JUDGE

27.9.2021"

In pursuance of the abovesaid order, a report has been submitted by the Sub Divisional Judicial Magistrate, Ratia (Fatehabad). The relevant portion of the said report is reproduced hereinbelow:-

"Complainant Arsad, aged 30 years son of Mohammd Deen, resident of Sherpura, Tehsil Chattargarh, District Bikaner (Raj.) now at Ward No.9, Prem Nagar Colony, Ratia, Tehsil Ratia, District Fatehabad and Hasan (injured), aged 26 years son of Mohammad Deen, resident of Sherpura, Tehsil Chattargarh, District Bikaner (Raj,) now at Ward no.9, Prem Nagar Colony, Ratia, Tehsil Ratia, District Fatehabad, stated on oath that the matter of FIR No.185 dated 31.07.2021 under Sections 148, 149, 323, 324, 325, 326, 341, 506 of IPC, P.S City Ratia, has been amicably settled with all accused persons namely (1) Parveen @ Kali, (2) Vijay @ Ballu and (3) Arun Kumar, (4) Pargat, (5) Ramandeep, (6) Satpal, (7) Kesar, (8) Lovepreet @ Dabbu, (9) Baljinder and (10) Sagar. Nothing is due against all accused persons. Compromise deed was written on 04.09.2021 according to their own sweet will and without any undue pressure or coercion from any side. There is no ill will between the parties. Now they do not want to pursue with the present FIR and has no objection if same be quashed. Xxx xxx

Following report is given on the point as desired by Hon'ble High Court:-

1. Regarding genuineness and voluntary nature of compromise;

Compromise appears to be authentic, genuine, voluntarily and without any under influence pressure or coercion has taken place between the parties and they have removed ill will against each other and for the sake of peace and harmony of their family, both the parties want to live without having any animosity against

each other and requested for quashing FIR.

2. Whether all accused/petitioners are appearing before the Court or are on bail; and 08 accused/petitioners had appeared (accused Persons namely Pargat, Ramandeep, Satpal, Kesar, Lovepreet @ Dabbu, Baljinder, Sagar are on anticipatory bail from the Hon'ble High Court and now on police bail) and remaining accused namely Parveen @ Kali, Vijay @ Ballu and Arun Kumar are on bail in this case.

3. Whether any other proceeding is pending against the accused/petitioners

As per statement of the parties and detailed statement of the Investigating Officer, no other criminal proceedings are stated to be pending against either of the parties.

However, out of the five accused namely Pargat, Balwinder, Parveen @ Kali, Vijay @ Ballu and Arun Kumar, who were produced before this court in this matter, following cases are stated to be pending against them in their bail reply:

Against accused Pargat one FIR No.75/20 under Sections 323, 341, 506, 34 of IPC, P.S City, Ratia is pending.

Against accused Parveen @ Kali one FIR No.205 dated 23.07.2019 under Sections 147, 149, 323, 341, 506 of IPC, P.S City, Ratia is pending.

Against accused Arun Kumar one FIR No.223 dated 16.09.2020 under Sections 147, 148, 149, 323, 506 of IPC, P.S City Ratia is pending.

Desired report submitted please. Thanking You,

Yours faithfully,

Sd/- (Pawan Kumar)

Encl: Original Statement of parties.

And Investigating Officer,

Certified copy of compromise deed"

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 petitioners has submitted that the petitioners were 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.185 dated 31.07.2021 registered under Sections 148, 149, 323, 324, 341 & 506 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station City Ratia, District Fatehabad, Haryana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2), are ordered to be quashed, qua the petitioners.