

(2022) 05 P&H CK 0103

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 17640 Of 2022

Rajesh Kumar And Another

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 24-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 323, 452, 506

Citation : (2022) 05 P&H CK 0103

Hon'ble Judges : Vikas Bahl, J

Bench : Single Bench

Advocate : Saleem Ahmed, Munish Sharma, Sunil Kumar

Final Decision : Disposed Of

Judgement

Vikas Bahl, J

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.824 dated 31.07.2016 registered under Sections 323, 452, 506, 34 of the Indian Penal Code, 1860 at Police Station Sadar Gurugram, District Gurugram (Haryana) (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 28.04.2022, this Court had passed the following order:-

"This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.824 dated 31.07.2016 registered under Sections 323, 452, 506, 34 of the Indian Penal Code, 1860 at Police Station Sadar Gurugram, District Gurugram (Haryana) (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that in the present case, there were four accused persons as per the FIR, out of which, one was declared as innocent and one person who was juvenile has been acquitted by the Juvenile

Justice Board and thus, the present petition has been filed by remaining two accused persons i.e. the present petitioners.

Notice of motion for 24.05.2022.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana appears and accepts notice on behalf of the respondent-State.

Mr. Sunil Kumar, Advocate appears on behalf of respondent No.2 and has reaffirmed the facts as stated by the learned counsel for the petitioners.

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

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 abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Gurugram. The relevant portion of the said report is reproduced hereinbelow:-

"In the present case, there is one complainant (as per the challan and report of IO) details of whom are as follows:

Ramphal aged 56 years. S/o Balbir Singh, R/o 38 Tikri, Gurugram-122101

In the present case. (as per the report of IO) there are total two accused persons facing trial before the court and named in the FIR, details of whom are as follows:

1. Rajesh Kumar, aged 50 years, son of Balbir.
2. Mukesh Kumar, aged 45 years, son of Balbir, Both resident of Village Tikri. Gurugram-122101. Same fact is reflected in the statement of the IO made today i.e. 09.05.2022. In view of the statements of the interested parties, I am satisfied that, they have compromised the matter amongst themselves without any fear or pressure and that the compromise has been voluntarily arrived at between them. Statement of compromise before this court has been made by complainant Ramphal and accused Rajesh & Mukesh. As per the report of IO. It is submitted that the accused are not proclaimed offender in the said case nor any other FIR is lodged against them. Statement of Investigating Officer is

recorded. Case is fixed at the stage of recording prosecution evidence.

Statements of the interested parties as well as statement of IO in original and the report of the undersigned be sent to the Hon'ble High Court. The statements and report be also sent to the Hon'ble High Court through Email/FAX immediately before the next date of hearing before the Hon'ble High Court i.e. 24.05.2022. Copies of the statements of the parties and the report be also retained on the file for record purposes. Statements of the interested parties in original is enclosed herewith.

Submitted please.

Sd/-(Mansi Gaur)

Judicial Magistrate First Class

Gurugram/UID No. HR-0446"

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 and there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for respondent No.2 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.824 dated 31.07.2016 registered under Sections 323, 452, 506, 34 of the Indian Penal Code, 1860 at Police Station Sadar Gurugram, District Gurugram (Haryana) and all the subsequent proceedings arising there from on the basis of compromise, are ordered to be quashed, qua the petitioners.

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