

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-31344 of 2019
Date of Decision: November 18, 2019.

Shubham Kumar @ Shabu and othersPetitioners
versus
State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.Digvijay Nagpal, Advocate, for the petitioners.
Mr.Surinder Pal Singh Tinna, Additional AG, Punjab.
Mr.Ritender Sodhi, Advocate, for respondent Nos.2 & 3.

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Anil Kshetarpal, J. (Oral)

Petitioners have approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short ('Cr.P.C.)) invoking its inherent jurisdiction for quashing of FIR No.108 dated 15.06.2019 registered under Sections 379-B/452/506/148/149 IPC (Section 451 IPC was added later on and Sections 379-B and 451 IPC were deleted after investigation), registered at Police Station City Malout, District Sri Muktsar Sahib and all the consequential proceedings arising therefrom, on the basis of compromise.

Notice of motion was issued on 27.07.2019 and on 27.09.2019, following order was passed:-

“Keeping in view the difficulty expressed by learned counsel for the petitioners, the parties are directed to appear before the Court of learned Illaqa Magistrate/trial Court on 14.10.2019 to record their statements with reference to the compromise, if any, entered into between them.

Petitioners shall file their affidavit that there is no other criminal case pending against them and also give the details of any other FIR(s), which have already been quashed on the basis of compromise.

Learned Illaqa Magistrate/trial Court will record the statements of all the accused, complainant/victim, if any, and submit a report alongwith the statements to this Court before the next date of hearing containing the following information:-

- (i) Whether the statements of the parties are *bonafide* and are not result of any pressure or coercion etc. in any manner?
- (ii) Whether the compromise effected between the parties is genuine and valid?
- (iii) Whether all the accused and complainant are party to the compromise and if not, the details/particulars of such person(s).
- (iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?
- (v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?
- (vi) Whether any of the petitioner(s) is/are previous convict or not?

List before this Court on 18.11.2019 for further consideration.

Meanwhile, learned State counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict

compliance.”

In compliance of the order dated 27.09.2019, both the parties have appeared before the Sub Divisional Judicial Magistrate, Malout and got their statements recorded. The Sub Divisional Judicial Magistrate, Malout after recording the statements of the parties, has sent his report dated 15.10.2019, the relevant part of which reads as under:-

“From the statements made by the parties, this Court is satisfied that aforesaid statements have been made by complainant Rakesh Kumar, eye witness Bhagwan Dass and accused are voluntarily, without any threat or any undue influence. It is further mentioned that as per statement of Investigating Officer, no other case has been registered against petitioners and none of the petitioner has been earlier convicted in any other case nor any of them has been declared as proclaimed offender”

After hearing the learned counsel for the parties and going through record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at an out of the Court settlement by way of compromise (Annexure P-2). The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

For the aforesaid view, this Court finds support from

Kulwinder Singh and others Vs. State of Punjab and another, 2007(3)

RCR (Criminal) 1052, upheld by Hon'ble Apex Court in **Gian Singh Vs.**

State of Punjab and others (2012) 10 SCC 303,

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No.108 dated 15.06.2019 registered under Sections 379-B/452/506/148/149 IPC (Section 451 IPC was added later on and Sections 379-B and 451 IPC were deleted after investigation), registered at Police Station City Malout, District Sri Muktsar Sahib and all the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

November 18, 2019
mohinder

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No