

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(118)

CRM-M-3753-2021 (O&M)

Date of decision: 16.09.2021

Vishal Chaudhary and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Akbarjit Singh, Advocate
for the applicants-petitioners.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-29092-2021

Prayer in the application is for preponement of the date of hearing
of the main case.

Notice of the application.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab
accepts notice on behalf of respondent No.1-State. Mr. Nikhil Sahota,
Advocate has put in appearance on behalf of respondent No.2. They do not
have any objection in case the prayer is acceded to.

Application is allowed.

The date of hearing of the main petition is preponed to today and is ordered to be taken on Board.

CRM-M-3753-2021

Counsel for the petitioners submits that the FIR (Annexure P-1) is an outcome of a misunderstanding between the parties, which has now been sorted out by virtue of compromise, Annexure P-2. He submits that Sections 308 and 148, IPC, have been deleted and Section 341, IPC, has been added, and in pursuance to the interim order passed by this Court on 23.02.2021, the parties have appeared before the trial Court and got their statements recorded.

On 23.02.2021, this Court passed the following order in the main case:-

“Prayer in this petition is for quashing of FIR No.006 dated 07.01.2021 under Sections 308, 323, 506, 148 of Indian Penal Code, 1860, registered at Police Station Division No.5, Jalandhar Police Commissionerate, (Sections 308 and 148 IPC were deleted and Section 341 of IPC was added) along with all consequential proceedings arising therefrom, on the basis of compromise deed, dated 09.01.2021, arrived at between the parties.

Notice of motion.

On asking of the Court, Mr. Harbir Sandhu, AAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. Mr. Nikhil Sahota, Advocate has put in appearance on behalf of respondent No.2. He has admitted the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 23.03.2021 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. Whether any other criminal case is pending against the accused.*

Report of Illaqa Magistrate/trial Court be awaited for 03.05.2021.”

In compliance of the above order, a report has been received from the trial Court, the relevant extract of which is reproduced as under:-

“1. It is respectfully submitted that as per the statement of Investigating Officer, ASI Balwinder Kumar, there are four persons arraigned as accused in the present FIR namely Vishal Chaudhary, Saurav Bajaj @ Saurav, Ashwani Kumar @ Ashwani Bajaj and Gagan Arora @ Gagani. All the accused appeared before the court and got recorded their statements regarding compromise. It is further respectfully

submitted that as per the statement of Investigating Officer, no accused is proclaimed offender in the present FIR.

- 2. It is further respectfully submitted that as per the statement of Investigating officer, ASI Balwinder Kumar, there is only one complainant/injured/aggrieved in the present FIR namely Sarwan Rajak son of Mithlesh. It is further respectfully submitted that complainant Sarwan Rajak son of Mithlesh has appeared before the court and got recorded his statement in support of the compromise.*
- 3. It is further respectfully submitted that challan in the present FIR No. 06 dated 07.01.2021, under Sections 308, 323, 506, 148 of IPC, registered at Police Station Division No. 5, Jalandhar, (Sections 308 and 148 IPC were deleted and Section 341 of IPC was added) has not been presented yet. One application for discharge of accused Saurav Bajaj @ Sourav Bajaj was decided by this court vide order dated 15.01.2021. Vide which, accused Saurav Bajaj @ Sourav Bajaj was released from judicial custody. The said application was ordered to be attached with the FIR.*
- 4. It is further respectfully submitted that in view of statements given by the parties this Court is of the considered opinion that compromise effected between the parties is genuine and it is effected voluntarily without any pressure, coercion or undue influence from any quarter.*
- 5. It is further respectfully submitted that as per the statement of Investigating Officer, ASI Balwinder Kumar, no other criminal case is pending against the accused.”*

Supreme Court in *Gian Singh Versus State of Punjab and another*, 2012(4) RCR (Criminal) 543 has held that the High Court has wide power under Section 482 of the Code of Criminal Procedure to quash an FIR or complaint having predominantly civil flavour or involving matrimonial offences and family disputes wherein the wrong is basically private or personal in nature and the parties have resolved their entire dispute. A Full Bench of this Court in case *Kulwinder Singh vs. State of Punjab and another*, 2007(3) RCR (Criminal) 1052 and Division Bench of this Court in case *Sube Singh and another vs. State of Haryana and another*, 2013(4) RCR (Criminal) 102 held that compounding of offence can be allowed even after conviction, during pendency of the appeal and even in cases involving non-compoundable offences.

Counsel for the parties are also ad idem that in view of the settlement of the dispute between the parties, the present petition deserves to be accepted. In view of the above, no purpose will be served in continuing with the criminal proceedings.

Accordingly, the petition is allowed. FIR No.006 dated 07.01.2021 under Sections 308, 323, 506 and 148 of the Indian Penal Code, 1860, registered at Police Station Division No.5 (Jalandhar Police Commissionerate), Annexure P-1, are quashed qua the petitioners.

(SUVIR SEHGAL)
JUDGE

16.09.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No