

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

229

**CRM-M-13884-2021
Decided on : 15.11.2021**

Sarabjit Singh @ Sarba

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Gurnam Singh, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. A. P. Singh, Advocate
for respondent No. 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 43 dated 17.05.2018 registered under Sections 307 and 452 of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 registered at Police Station Mehna, District Moga (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 09.02.2021 (Annexure P-5).

When the matter came up before this Court on 01.09.2021, the following order was passed:-

“This is a petition for quashing of the FIR No.43 dated 17.05.2018 under Sections 307 and 452 IPC and Section 25 of the Arms Act, 1959 at Police Station Mehna, District Moga on the basis of compromise dated 09.02.2021 (Annexure P-5).

Learned counsel for the petitioner has submitted that

there is no injury on any vital part and, thus, no offence under Section 307 IPC is made out.

It is also pointed out that till date the statements of the accused persons and the complainant/victim have not been recorded.

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

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.*

Adjourned to 15.11.2021 for awaiting report.”

In pursuance of the said order, a report has been submitted by the Additional Sessions Judge, Moga to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“The requisite information sought pointwise is as follows:

- 1. As per final police report under Section 173 Cr.P.C., there is one accused namely Sarabjit Singh @ Sarba son of Nachhattar Singh resident of Dhurkot Tahliwala.*
- 2. As per report of Ahlmad, accused has not been declared proclaimed offender.*

3. *From the statements of the parties and from the inquiries made from them, the compromise appears to be genuine, voluntary and without any coercion or undue influence.*
4. *As per statement of SI Major Singh no.735/Moga, except the present case, three other cases bearing FIR No. 90 dated 31.12.2010 under Sections 324, 323, 341, 506, 34 IPC P.S. Ajitwal, FIR No. 116 dated 14.11.2017 under Section 22,25 of NDPS Act P.S. Ajitwal and FIR No. 156 dated 26.05.2018 under Section 25 of Arms Act P.S. City Rajpura were registered against present accused Sarabjit Singh.*
5. *As per statement of SI Major Singh, present case was registered on the statement of complainant Charanjit Kaur and there is only one victim namely Mangal Singh. His statement is also annexed with this report.*

Report is accordingly submitted please.”

A perusal of the said report would show that 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 No. 3-complainant has reiterated the factum of compromise and has prayed for quashing of FIR

on the basis of the same.

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”***, 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”***, 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. 43 dated 17.05.2018 registered under Sections 307 and 452 of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 registered at Police Station Mehna, District Moga (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 09.02.2021 (Annexure P-5), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

15th November, 2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No