

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

221

**CRM-M-12172-2019 (O&M)
Decided on : 13.10.2021**

Som Singh and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL
(Through Video Conferencing)**

PRESENT: Ms. Bandana Dogra, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Ms. Neetu, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 90 dated 20.05.2013 registered under Sections 295, 323 and 149 of the Indian Penal Code, 1860 registered at Police Station Dasuya, District Hoshiarpur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 06.03.2019 (Annexure P-2).

When the matter came up before a Coordinate Bench of this Court on 15.03.2019, the following order was passed:-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No. 90 dated 20.05.2013 (Annexure P-1) under Sections 295 and 323 read with Section 149 of Indian Penal Code registered at Police Station Dasuya, District Hoshiarpur.

Notice of motion for 17.05.2019.

At the asking of the Court, Mr. Amandeep S.Gill, Senior D.A.G, Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

At this stage, Mr. Vishal Satija, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate on 18.03.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaqa Magistrate 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 in FIR.*
- 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 case 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.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.”

In pursuance of the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Dasuya to the Registrar of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“In view of above said order statement of complainant, Davinder Singh and accused/petitioner namely Som Singh, Makhan Singh have been recorded. Inspector Ashwani Kumar

has also got recorded his statement in which he stated that he is I.O. In this case and only one victim in this who is complainant namely Davinder Singh. It is further submitted that complainant in his statement stated that the present FIR was registered against five persons namely Jagdev Singh, Amritpal Singh, Son Singh, Makhan Singh and Avtar Singh and one accused namely Amritpal Singh has been declared proclaimed offender and accused Jagdev Singh and Avtar Singh had died in his case. All the accused/ petitioner in their statement stated that no other criminal case is pending against them except this case.

As per statement of the parties compromise has been arrived between them and same appears to be genuine, with their free will and without any pressure, coercion and undue influence.

Find enclosed statements of complainant, Davinder Singh and accused/petitioner namely Som Singh and Makhan Singh and Inspector Ashwani Kumar (I.O.).

The report is hereby submitted for your kind consideration.”

A perusal of the said report would show that it has been found that the compromise which has been arrived at between the parties is genuine and without any fear, coercion or pressure. It has also been pointed out that two of the accused persons have died and one accused person namely Amritpal Singh had been declared as proclaimed offender.

Learned counsel for respondent No. 2-complainant has submitted that in fact, the compromise in the present case is genuine and the complainant does not wish to pursue his case against any of the petitioners including the petitioner No. 2-Amritpal Singh and in fact,

prays to the Court that the FIR and all subsequent proceedings arising therefrom in the present case may kindly be quashed.

Learned counsel for the complainant has also referred to the statement of Davinder Singh-complainant which has been recorded by the Sub Divisional Judicial Magistrate, Dasuya. The said statement is reproduced hereinbelow:-

“Statement of complainant Davinder Singh S/o Bhulla Ram, caste Harijan, r/o village Rachhplwan, Police Station Dasuya, District Hoshiarpur alongwith Sh. Gurpreet Singh Bhatti Advocate.

Stated that I am complainant in this case and I have effected the compromise with the accused persons in the presence of the respectable of the locality. Now I have no grudge or grievances against the accused persons. I have effected the compromise voluntarily, without any pressure, coercion and undue influence and same is genuine. The present FIR was registered against five persons namely Jagdev Singh, Amritpal Singh, Som Singh, Makhan Singh and Avtar Singh and one accused namely Amritpal Singh has been declared proclaimed offender and accused Jagdev Singh and Avtar Singh had died in this case. I have no objection if the instant FIR be quashed against accused persons.”

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 feel that the same was

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”

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 petitioners 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 90 dated 20.05.2013 registered under Sections 295, 323 and 149 of the Indian Penal Code, 1860 registered at Police Station Dasuya, District Hoshiarpur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise arrived at between the parties, vide compromise dated 06.03.2019 (Annexure P-2), are ordered to be quashed, qua the petitioners.

Pending miscellaneous application, if any, shall also stand disposed of, in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

13.10.2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No