

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-19094-2021

Date of decision : 15.09.2021

Rohit Davesar and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sherry K.Singla, Advocate
for the petitioners.

Mr.Saurav Khurana, DAG, Punjab.

Mr.H.R.Bhardwaj, Advocate
for respondents no.2 to 4.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is petition filed under Section 482 Cr.P.C. for quashing of FIR No.109 dated 26.05.2020, registered under Section 306 IPC at Police Station Sahnewal, District Ludhiana (Annexure P-1) and all the consequential proceedings arising therefrom on the basis of compromise deed dated 31.07.2020 (Annexure P-2).

On 13.08.2021, a co-ordinate Bench of this Court has passed the following order:-

“Vide this petition under Section 482 of Cr.P.C. the petitioners pray for quashing of the FIR No. 109 dated 26.5.2020 under Section 306 of IPC, registered at Police Station Sahnewal, District Ludhiana and all consequential proceedings, for, the parties have resolved their differences and a compromise deed dated 31.7.2020 (Annexure P-2) in this regard has since been

effected.

Mr. H.R. Bhardwaj, Advocate has caused appearance on behalf of respondents No.2 to 4 and submits that he has no objection if the FIR in question is quashed, for, the dispute between the parties has since been settled.

The parties are directed to appear before the Illaqa Magistrate/ trial Court/Duty Magistrate on 25.8.2021, for getting their statements recorded qua the execution and veracity of the alleged compromise.

The Illaqa Magistrate/trial Court/Duty Magistrate, post recording statements of all the affected parties, shall submit a report on or before the adjourned date. And shall also furnish 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 15.9.2021.

Reply, if any, on behalf of the State be filed, in the meanwhile.”

In pursuance to the said order, the report has been submitted by the Chief Judicial Magistrate, Ludhiana. It has been stated in the said report that in view of the statements of the persons concerned, it has been found that matter has been compromised with the intervention of the respectable persons and the said compromise is voluntarily, without any pressure, threat or undue influence or coercion. The relevant part of the report is reproduced

“3. It is respectfully submitted that in view of the statements of complainant Rameshwar Ram, Sudesh Rani and Ankita Sharma and accused persons namely Rohit Davesar and Narinder Singh, the matter has been compromised between them with the intervention of respectable persons of the locality, out of their free Will, voluntarily and without any pressure, threat, undue influence or coercion from any quarter. (Copies of their statements are enclosed herewith). They have also placed on record the copies of their Aadhar Cards as Mark-A to Mark-E respectively, which are also enclosed herewith.

4. It is further respectfully submitted that Investigation Officer ASI Sadhu Singh No.485/Ldh. P.S. Sahnewal, Ludhiana suffered statement that in the present matter, Ravish Kumar @ Babbi had committed suicide and the present FIR was got registered by complainant Rameshwar Ram, who is father of deceased Ravish Kumar @ Babbi and Sudesh Rani is mother and Ankita Sharma is wife of deceased Ravish Kumar @ Babbi. Investigation Officer further got recorded his statement that present FIR was registered against two accused persons only namely Rohit Davesar son of Sukhdev Davesar and Narinder Singh son of Amarjit Singh and that as per record, accused Rohit Davesar and Narinder Singh have never been declared as proclaimed offender in the present matter nor any proclamation proceedings are pending against them and they are not involved in any other FIR or case.

5. Accordingly, report is being submitted please.

Thanking you,

Yours faithfully,

Sd/-

*(Sumit Makkar) PCS,
Chief Judicial Magistrate,
Ludhiana. UID No.PB0258.”*

Learned counsel for the petitioners has relied upon the judgment passed by a co-ordinate Bench of this Court dated 09.02.2017 passed in CRM-M-37957-2015 titled as “**Harmesh Singh and another vs. State of Punjab and another**”, to contend that a petition under Section 482 Cr.P.C. for quashing of FIR registered under Section 306 IPC on the basis of compromise is maintainable. It is further submitted that in the present case, all the legal heirs of the deceased have been impleaded and all the said persons have compromised with the petitioners.

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of the said compromise.

Learned counsel for respondent nos.2 to 4 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 families. He prayed that FIR and subsequent proceedings may 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 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 learned 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, this petition is allowed and FIR No.109 dated 26.05.2020, registered under Section 306 IPC at Police Station Sahnewal, District Ludhiana (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

September 15, 2021

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No