

CRM-M-15800-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(252)

CRM-M-15800-2019.
Date of Decision:-22.12.2021.

Balwant Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. M.S. Yadav, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.57 dated 18.06.2016, registered under Sections 420, 406, 120-B, 465, 467, 468, 201 of IPC at Police Station Khanauri, District Sangrur (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 25.12.2016 (Annexure P-2).

On 02.12.2021, this Court was pleased to pass the following order:-

“CRM-38375-2021

*This is an application filed under Section 482 of Cr.P.C.
for preponement of the date of hearing in the main case which
is now stated to be listed for 12.07.2022 to an early date.*

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. M.S. Yadav, Advocate appears on behalf of respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 12.07.2022 to today.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 12.07.2022 to today itself.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.57 dated 18.06.2016 registered under Sections 420, 406, 120-B, 465, 467, 468, 201 of the Indian Penal Code, 1860 at Police Station Khanauri, District Sangrur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

*Learned counsel for the petitioner has submitted that in the present case, compromise has been effected between the petitioner and respondent No.2 and although, there is one more accused with whom the compromise has not been effected but has submitted that even partial compromise is permissible and has relied upon the judgment of the Hon'ble Supreme Court in case titled **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat***

and another, reported as **2012(12) SCC 401** and the judgment passed by the Coordinate Bench of this Court in case titled ***Pardeep Singh Vs. State of Punjab and another***, CRM-M-24407-2021, decided on 27.10.2021.

List on 22.12.2021.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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.”*

In pursuance of the said order, the report has been submitted by the Judicial Magistrate Ist Class, Moonak (Sangrur) to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“1. As per the statement of IO, there is only accused namely Balbir Singh son of Lal Singh resident of Gali No.6,

Gurdeep Nagar Karnail Gate Jagraon, District Ludhiana is framed as accused in the present FIR. However, the other person namely Balwant Singh son of Gurcharan Singh resident of Chhapar Tehsil and District Ludhiana is added in the column no.2 of the 173 Cr.P.C. report as there was insufficient evidence against him hence declared innocent in the present FIR. Later on Balwant Singh was summoned by Court u/s 190 (1) (C) to face the trial.

2. *As per the present Investigating Officer, no person is proclaimed offender in this case.*

3. *As per the statement of the parties, the compromise appears to be genuine, entered into voluntarily and without any coercion and undue influence.*

4. *As per the statement of IO no FIR against accused has been lodged except the present FIR.*

5. *As per the statement of present investigating Officer SI Birbal Sharma No.338/GRP, there is one complainant/victim namely Sukhchain Singh son of Harbhajan Singh resident of ward No.6 Khanauri, P.S. Khanauri, Tehsil Moonak District Sangrur.*

Report is submitted please.

Yours faithfully

Sd/-

*Gurinder Pal Singh
Judicial Magistrate, Ist Class,
Moonak (Sangrur)
(UID-PB0483).*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with their own free will and without any coercion. The compromise has been found to be genuine and valid. As per the said report, it has been observed that none of the persons have been declared as proclaimed offenders in the present case and no other case is pending against the petitioner.

A perusal of the above report would further show that other than the petitioner, there is one more accused namely Balbir Singh as has been noticed in the order dated 02.12.2021 and on the basis of the judgments which have been relied upon in the said order, it is clear that the FIR can be quashed only qua the petitioner on the basis of the compromise.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he 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 Nos.2 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 parties.

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

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the parties have decided to live in peace, this Court is of the opinion 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

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process of any Court. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.57 dated 18.06.2016, registered under Sections 420, 406, 120-B, 465, 467, 468, 201 of IPC at Police Station Khanauri, District Sangrur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No