

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 17.12.2021

1. CRM-M-24750-2021(O&M)

Rupinder Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

2. CRM-M-28951-2021

Bhupinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.B.S.Bhalla, Advocate
for the petitioners.

Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Vishavjeet Singh @ Rishi, respondent no.2 in person and
also as Special Power of Attorney on behalf of respondent no.3.

VIKAS BAHL, J.(ORAL)

CRM-41519-2021 IN CRM-M-28951-2021 & CRM-24750-2021

Prayer in this application as well as request in CRM-M-24750-
2021 is to pre-pone the hearing of both the petitions from 17.01.2022.

Heard. In view of the averments made in the application and
the request in CRM-M-24750-2021, the application is allowed and both the
main petitions are pre-poned from 17.01.2022 to today. The main petitions
are taken up on Board for today itself for final hearing.

CRM-22136-2021 IN CRM-M-24750-2021

This application under Section 482 Cr.P.C. has been filed with a prayer for adding Section 201 IPC in the head note as well as in the prayer clause of main petition.

In view of the averments made in the application, the application is allowed and Section 201 IPC is ordered to be added in the head note of the petition as well as in the prayer clause. Registry is directed to do the necessary correction in the petition.

Main petitions

This order will dispose of above said two petitions which have been filed for quashing of FIR no.210 dated 17.08.2019 registered under Sections 419, 420, 465, 467, 468, 471, 448, 120-B IPC (Section 201 IPC added later on) at Police Station City Moga, District Moga and all other consequential proceedings arising therefrom, on the basis of compromise dated 20.04.2021.

The first petition, i.e. CRM-M-24750-2021 has been filed by 11 petitioners for quashing of the aforesaid FIR on the basis of compromise. In the said petition, on 07.07.2021, a coordinate bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

Prayer made in this petition is for quashing of FIR as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 19.08.2021.

At this stage, Mr. Vishavjeet Singh @ Rishi

respondent No.2 appears in person and also as Special Power of Attorney on behalf of respondent No.3.

In the meanwhile, parties would appear before the Illaqa Magistrate on 19.07.2021 for recording their statements. The concerned Court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person.”

The second petition, i.e. CRM-M-28951-2021 has been filed by Bhupinder Kaur by stating that in the first petition, one petitioner who was also accused, i.e. Bhupinder Kaur has been left out and accordingly, a coordinate bench of this Court on 28.07.2021 was pleased to pass the following order:-

“The case has been taken up for hearing through video-conferencing.

Prayer made in this petition is for quashing of FIR as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Present petitioner was named subsequently. Co-accused have already preferred CRM-M No.24750 of 2021 in which notice of motion was issued for 19.08.2021 and parties were directed to appear before the Illaqa Magistrate on 19.07.2021. Infact, the parties

have appeared before the Illaqa Magistrate on the date fixed and have also got recorded their statements.

Notice of motion for 19.08.2021.

In the meanwhile, statement of the petitioner be also recorded by the Illaqa Magistrate and a report to that effect be submitted before the adjourned date.”

In pursuance of the above said orders passed in two petitions, the reports have been submitted by the Chief Judicial Magistrate, Moga. The relevant portion of the first report dated 22.07.2021 is reproduced hereinbelow:-

“With reference to the subject cited above, I have the honour to submit that in compliance of above said order dated 07.07.2021 passed by Hon'ble High Court, the parties have come present for recording their statements with regard to the compromise effected between them. Statements of complainant Vishavjeet Singh alias Rishi and accused persons namely Rupinder Singh, Gurpreet Singh, Raj Karan Singh, Ravinderpal Singh, Parvinder Kaur, Manjit Singh, Amarjit Kaur, Jasdeep Singh, Paramjit Singh and Jaswinder Singh have been recorded, in which they have stated that they have compromised with each other with the intervention of respectable persons and the compromise is voluntary without any pressure or coercion and they have no objection if as per compromise, FIR of instant case is quashed.

In view of statement of above said complainant and accused persons, the compromise seems to be voluntary without any pressure or coercion. As per the statement of Investigating Officer, there are no P.O proceedings pending against any of above said accused persons. As per FIR, there are total 15 accused in the FIR no.210 dated 17.08.2019 registered under Sections 419, 420, 465, 46/, 468, 471, 448, 120-B of IPC (later on added Section 201 of IPC) at P.S. City, Moga and out of them, 11 accused have filed the petition for quashing or FIR in the Hon'ble Punjab & Harvana High Court. Accused Sukhpreet Singh is proclaimed person in the above said FIR and he has not come present to record his statement today. The original statements of above said complainant, accused persons and Investigating Officers are sent herewith for kind perusal.

It is further submitted that complainant Vikramjit Singh has not come present in the court for his statement in compliance of above said order dated 07.07.2021.

Report submitted please. ”

The relevant portion of the second report dated 04.08.2021 in CRM-M-28951-2021 is reproduced hereinbelow:-

“With reference to the subject cited above, I have the honour to submit that in compliance of above said order dated 28.07.2021 passed by Hon'ble High Court, petitioner Bhupinder Kaur has come present for

recording her statement with regard to compromise effected between her and complainant. Statement of petitioner Bhupinder Kaur has been recorded, in which she has stated that she has compromise the matter with complainants with the intervention of respectable persons and the compromise is voluntary without any pressure or coercion.

Report submitted please.”

A perusal of the above said reports would show that there were 15 accused persons.

Learned counsel for the petitioners as well as respondents no.2 and 3/ complainant and the State have submitted that in the present case only 12 persons have been challaned and all the 12 persons have filed the petitions. It has been mentioned in the reports that Vikramjit Singh-respondent no.3 had not appeared personally. Learned counsel for the petitioners as well as complainant have stated that said Vikramjit Singh had given a special power of attorney to Vishavjeet Singh and Vishavjeet Singh has also appeared in person and has stated that he has special power of attorney in his favour and has produced the copy of special power of attorney dated 07.12.2019 and the same is taken on record as Mark A. A perusal of said attorney moreso, clause 4 would show that power to the compromise the matter has already been given by respondent no.3 in favour of respondent no.2 Vishavjeet Singh. The relevant portion of said power of attorney is reproduced hereinbelow:-

“Know all men by these presents that I Vikramjit

Singh Son of Gurmel Singh and Randhir Kaur, born on

21st June, 1977, Aadhar Number 376643531091, resident of House no.1-C, Manak Enclave Dhandran Road Ludhiana do hereby constitute, appoint, authorize and nominate my younger brother Vishavjeet Singh Alias RISHI Son of Gurmail Singh, resident of House No. HE-1111, Phase-1, Mohali (SAS Nagar) as my true and lawful Special Power of Attorney in respect of my share in 12 Marla Property comprised in Khasra No.938, Khewat No.372, Khatauni number 422 as per jamabandi for the Year 2012-2013 Hadbast No.23, situated at Moga Mehla Singh-I (Basti Gobind Garh), G.T. Road, Moga-Punjab, India. I do hereby empower my special power of attorney to do the following acts, deeds and things in my name and on my behalf:-

a) I have got recorded one FIR No.210, Dated 17.08.2019. Police Station City Moga, District Moga. I do hereby authorize Sh.Vishavjeet Singh alias Rishi to present himself as witness in any Court on my behalf, to sign, file any affidavit, declaration, to give any statement, to file any petition, application, complaint, sign any Statement, document, Vakalatnama, to join the investigation of this FIR, to present himself before the police authorities, officers or Court or engage any advocate on my behalf in the above mentioned case/FIR or any proceedings arising out of this FIR.

xxx xxx xxx

5. *To settle any compromise with the opposite party and receive any money etc on my behalf, and withdraw from any proceedings.”*

A perusal of the above said reports would show that the compromise in the present case has been found to be genuine and voluntarily and has been entered without any pressure or coercion.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners. The said fact has been reaffirmed by the learned counsel for the State.

Learned counsel for respondent nos.2 and 3 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 parties.

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

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 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 above said exceptional circumstances, both the petitions are allowed and FIR no.210 dated 17.08.2019 registered under Sections 419, 420, 465, 467, 468, 471, 448, 120-B IPC (Section 201 IPC added later on) at Police Station City Moga, District Moga, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Since the main case stands disposed of, so pending
miscellaneous application stands disposed of.

(VIKAS BAHL)
JUDGE

December 17, 2021
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No