

CRM-M-26072-2021

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

CRM-M-26072-2021.
Date of Decision:-24.09.2021.

Narinder Singh Gill and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.S. Panag, Advocate for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Tejinder Pal Singh Bawa, Advocate for
respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No.58 dated 27.04.2016, registered under Sections
294/427/452/511/506/34 IPC and Section 3 of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station
Sadar Ludhiana, District Ludhiana, on the basis of compromise dated
25.01.2021 (Annexure P-2).

On 18.08.2021, a Co-ordinate Bench of this Court had passed
the following order:-

*“The case has been taken up for hearing through video
conferencing. The petitioners have filed the present petition*

under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.58 dated 27.04.2016 registered under Sections 294, 427, 452, 511 and 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Police Station Sadar Ludhiana, District Ludhiana and all subsequent proceedings arising therefrom on the basis of compromise.

Mr. Tejinder Pal Singh Bawa, Advocate has appeared on behalf of respondent No.2 and filed his power of attorney through email print out of which is taken on record.

Learned Counsel for respondent No.2 admits the factum of compromise and also undertakes to file his original power of attorney in the Registry.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 26.08.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before 24.09.2021 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. Current stage of the case.

The trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State be filed on the date of hearing fixed, if so desired.”

In pursuance of the said order, the report has been submitted by the Additional District & Sessions Judge, Ludhiana. The relevant part of the report is reproduced hereinbelow:-

“XXX---XXX--The report on the points as sought by the Hon’ble Punjab and Haryana High Court is as under:-

- i) Accused Narinder Singh Gill and Davinder Kaur are arrayed as accused in the present FIR.*
- ii) As per report of Ahlmad, no accused is declared as proclaimed offender in the present case.*
- iii) The compromise between the complainant Sushma Balu and accused Narinder Singh Gill and Davinder Kaur is genuine, voluntary and without any coercion or undue influence.*
- iv) As per the statement of accused, no criminal case is pending against them.*
- v) The case is pending for prosecution evidence.*

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ASI Jagtar Singh No.34/Ldh made statement that he conducted the initial investigation in this case from the date of recording the statement of complainant and Sushma Balu is the only complainant/victim.

SI Balkar Singh No.2644/Ldh made statement that in the present FIR, he was the Investigating Officer and in the present case, Sushma Balu was the only complainant/victim. There was no other victim in the present FIR.

Report is submitted as desired, please.

Sd/-

*(Raj Kumar)
Addl. District & Sessions Judge,
Ludhiana.
UID No.PB0066.”*

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 between the parties.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were 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.2 has also reiterated the fact 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.

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, this petition is allowed and FIR No.58 dated 27.04.2016, registered under Sections 294/427/452/511/506/34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Sadar Ludhiana, District Ludhiana and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

September 24, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No