

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

116+227

**CRM-M-26676-2021
Decided on : 16.12.2021**

Dr. Kulwinder Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

AND

CRM-M-42530-2021 (O&M)

Gurdit Singh @ Deep

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. S. S. Aviraj, Advocate
for the petitioners in CRM-M-26676-2021 and
for the respondent Nos. 2 to 7 in CRM-M-42530-2021.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Madhu Jangra, Advocate for
Mr. Himanshu Rao, Advocate
for the petitioner in CRM-M-42530-2021
for respondent Nos. 2 to 7 in CRM-M-26676-2021.

VIKAS BAHL, J. (Oral)

CRM-42106-2021 in CRM-M-42530-2021

For the reasons recorded in the application, the same is
allowed subject to just all exceptions and short reply by way of affidavit of
complainant-respondent No. 2 is placed on record.

Main Cases

By virtue of this common order, this Court proposes to dispose of two petitions bearing No. CRM-M-26676-2021 titled as Dr. Kulvinder Singh and others Vs. State of Punjab and others; and CRM-M-42530-2021 titled Gurdip Singh @ Deep Vs. State of Punjab and others as the same are arising out of the same FIR.

The petitioner bearing CRM-M-26676-2021 is for quashing of cross case i.e. Rapat No. 20 dated 16.04.2021 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala in FIR No. 24 dated 13.04.2021 registered under Sections 323, 324, 325, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala (Annexure P-1) and the petition bearing No. CRM-M-42530-2021 is for quashing of FIR No. 24 dated 13.04.2021 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 (Section 325 IPC added later on) at Police Station Bholath, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise deed dated 23.04.2021 (Annexure P-2).

When the matter came up before this Court on 15.09.2021, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of Cross case i.e. Rapat No.20 dated 16.04.2021 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala in FIR No.24 dated 13.04.2021 registered under

Sections 323, 324, 325, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala(Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 16.12.2021.

On asking of the Court, Mr. Saurav Khurana, Deputy Advocate General, Punjab, appears and accepts notice on behalf of the respondent-State and Mr. Himanshu Rao, Advocate appears on behalf of the private respondents.

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

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.”*

On 02.11.2021, this Court was pleased to pass the following order:

“This is the first petition under Section 482 Cr.P.C. for quashing of FIR no.24 dated 13.04.2021 registered under Sections 323, 324, 148 and 149 IPC (Section 325 IPC added later on) at Police Station

Bholath, District Kapurthala.

Learned counsel for the petitioner has submitted that on account of inadvertent error in CRM-M-28256-2021, the statement was made that all the concerned persons in the matter have been made a party, however, present petitioner Gurdit Singh @ Deep, who was also an accused in the FIR, was not made a party. It is stated that the said case is listed for 16.12.2021 and this Court had directed the parties to appear before the Illaqa Magistrate / trial Court within a period of one month and it is stated that the said persons, including the complainant, had already recorded their statements.

Notice of motion.

On asking of the Court, Mr. N.K. Banka, DAG, Punjab, appears and accepts notice on behalf of the State and Mr. S. S. Aviraj, Advocate, appears on behalf of the private respondents.

Learned counsel for respondent no.2-complainant has submitted that the he has no objection in case the aforesaid FIR qua present petitioner is quashed.

Respondent no.2 is thus directed to file an affidavit to said effect before the next date of hearing.

Adjourned to 16.12.2021.

To be listed along with CRM-M-28256-2021.”

In pursuance of the order dated 15.09.2021, a report has been submitted by the Sub Divisional Judicial Magistrate, Bholath to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“In compliance of the said order, parties have appeared on 21.09.2021, and their statements under the identification of

their respective counsel were recorded. As per their statements, the compromise has been arrived in between the parties voluntarily without any pressure or coercion through the respectables of the locality, and except the present case, they are not involved in any other case, and none of them is declared as proclaimed offender. Further, it is hereby intimated that as per the statement of ASI Ravinder Singh No.1440/Kpt, PS Bholath, District Kapurthala, the present Rapat was registered against total five accused namely Dr. Kulwinder Singh, Deepu @ Parminder Singh, Jony @ Sukhjinder Singh, Micky Arora @ Tarun Arora, Parmeshar Singh; None of the accused is declared as proclaimed offender in this case; and except the present Rapat/case, accused/petitioners are not involved in any other FIR/case. In this case, only one complainant is there whose name is Buta Ram and he is the victim, as well. In this regard, statements of Ravinder Singh No.1440/Kpt, PS Bholath, District Kapurthala, has also been recorded. Requisite statements of the parties, recorded in this Court, are being sent herewith. This is for your kind information and necessary action.

Submitted please.”

Alongwith the said report, the joint statement of all the complainants has also been taken as per which it has been specifically stated that the compromise is genuine and bona fide and some

photographs are attached.

In CRM-M-42530-2021, affidavits of 6 complainants/victim have also been attached by the counsel for the petitioner which have been reaffirmed by the counsel for the complainant to state that the compromise is genuine and bona fide and the FIR against all the accused be quashed.

A perusal of the abovesaid facts would clearly show that the compromise has been effected between all the accused persons and all the complainants/victim and the same is found to be genuine and bona fide.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case. Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent Nos. 2 to 7 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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 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 what has been discussed hereinabove, the petition is allowed and Rapat No. 20 dated 16.04.2021 registered under Sections

323, 324, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala in FIR No. 24 dated 13.04.2021 registered under Sections 323, 324, 325, 148 and 149 of the Indian Penal Code, 1860 at Police Station Bholath, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise deed dated 23.04.2021 (Annexure P-2), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 16th, 2021
Mehak

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