

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27707-2021

Date of decision : 10.12.2021

Harpreet Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rahul Bhargava, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Ms.Aarti Kaur, Advocate
for respondents no.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.0134 dated 21.05.2021 registered under Sections 307, 506 IPC at Police Station Chheharta, District Police Commissionerate Amritsar and all other consequential proceedings arising therefrom, on the basis of compromise dated 29.06.2021 (Annexure P-2).

On 20.07.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

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

The petitioners have filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.134 dated 21.05.2021 registered under Sections 307 and 506 of the Indian Penal Code,

1860 in Police Station Chheharta, District Police Commissionerate Amritsar and all subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. AG, Punjab has appeared and accepted notice on behalf of respondent No.1-State.

Ms. Aarti Kaur, Advocate has appeared on behalf of respondents No.2 and 3 and admits the factum of compromise and also undertakes to file her power of attorney in the Registry.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 30.07.2021 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 02.09.2021 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, a report has been submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“Accordingly, in view of statements made by complainant, Tejinder Kaur, victim Sehajpreet Singh, accused Harpreet Singh and Investigating Officer ASI Sahib Singh No.3597/Amritsar, FIR No. 134 of 21.05.2021, under sections 307,506 IPC, Police Station Chheharta Amritsar, was registered on the statement of complainant, Tejinder Kaur against one accused only namely Harpreet Singh son of Avtar Singh. However, complainant Tejinder Kaur and injured Sehajpreet Singh are the aggrieved persons in the present case and they appeared before this Court and made statement qua the compromise. Further challan in the present case has not been presented till date and in view of statements of complainant, Tejinder Kaur, injured Sehajpreet Singh, compromise appears to be genuine, arrived at voluntarily between the parties and out of their free will and without any pressure or coercion. As per statement and affidavit of accused, Harpreet Singh and statement of I.O. ASI Sahib Singh, accused has not been declared as proclaimed offender in the present case and there is no other Police record of him. It is further submitted that accused, Harpreet Singh is in judicial custody in the above-mentioned FIR and challan has not been presented in the Court so far.

Report is submitted accordingly. ”

A perusal of the above said report 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 petitioner has submitted that in the

present case, petitioner Harpreet Singh has been released from the custody. It is also submitted that respondent no.2 is the wife of petitioner and respondent no.3 is the son of the petitioner and thus, the petitioner and respondents are closely related to each other. It is also submitted that in the present case, proceedings are at the initial stage and even the challan has not been filed. It is further submitted that the compromise will help the respondents and the petitioner to live peacefully as they have to live in the same house. It is further submitted that there is no other FIR against the petitioner and was not declared proclaimed person / offender in the present case. The said facts have been reaffirmed by the learned counsel for the State.

Learned counsel for respondents no.2 and 3-complainant and injured has submitted that the averments made in the compromise dated 29.06.2021 are based on the actual incident which took place, and the said compromise has been duly signed by the complainant. It is submitted that as per said compromise, in fact the injury attracting Section 307 IPC cannot be stated to have been inflicted by the petitioner inasmuch as he had only pushed his son Sehajpreet Singh but on account of the fall, Sehajpreet Singh had suffered injury. It is submitted that in case the present FIR is not quashed and proceedings continue, then the same would keep an atmosphere of tension and pressure in the house where the petitioner and respondents no.2 and 3 have to live together. With the culmination of the criminal proceedings, there will be restoration of peace and happiness in the family. She has, thus, prayed that FIR and subsequent proceedings may be quashed.

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, this petition is allowed and FIR No.0134 dated 21.05.2021 registered under Sections 307, 506 IPC at Police Station Chheharta, District Police Commissionerate Amritsar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 10, 2021
Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No