

CRM-M-31537-2021

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

(243)

CRM-M-31537-2021.
Date of Decision:-29.11.2021.

Kamaljit Kaur and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Surender Saini, Advocate for
Mr. G.S. Rawat, 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.51 dated 09.04.2021, registered under Sections 406 and 120-B of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Division No.6, Jalandhar and all the consequential proceedings arising therefrom, on the basis of compromise deed (Annexure P-2).

On 27.09.2021, this Court was pleased to pass the following order:-

*“This is an application filed under Section 482 of Cr.P.C.
for preponement of date of hearing in the main case to an*

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earlier date while directing the trial Court to record the statements of both the parties on an earlier date.

Learned counsel for the applicants-petitioners has submitted that in the present case, although the statements were to be recorded on 28.10.2021 and the date of hearing in the main case was fixed for 01.12.2021 but on account of intervening circumstances, a prayer has been made to permit the parties to record their statements within a period of one week and the matter be preponed prior to vacations which are starting from 15.10.2021. It has been submitted that the unfortunate incident has taken place after passing of order dated 06.08.2021 inasmuch as the husband of daughter of the petitioners suffered a massive heart attack and had expired on 05.09.2021 in Canada. A copy of the death certificate dated 07.09.2021 has been annexed with the present application as Annexure A-1 to substantiate the said fact. It is submitted that the petitioners being old parents of their daughter are urgently required in Canada to console and take care of their daughter who is in deep shock.

Notice in the application.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the non-applicant/State and Mr. G.S. Rawat, Advocate appears on behalf of non-applicant/complainant/respondent No.2 and submit that since the matter has been compromised, thus, they have no objection

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in case, the date of hearing in the main case is preponed and the statements are recorded on an earlier date on account of unfortunate incident which has taken place in the family of the petitioners.

Keeping in view the abovesaid exceptional circumstances, this Court deems it appropriate to permit the parties to record their statements within a period of four days from today and the concerned Illaqa Magistrate/trial Court is requested to submit its report as detailed in order dated 06.08.2021 on or before 11.10.2021 and the date of hearing in the main case is also ordered to be preponed from 01.12.2021 to 13.10.2021.

Application stands disposed of.”

In pursuance of the said order, the report has been submitted by the Chief Judicial Magistrate, Jalandhar to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Para-wise report as sought by the Hon’ble High Court is as under:-

- 1. As per statement of SI Ramesh Kumar there are two accused in this case F.I.R. namely Satjot Singh Brar son of Meharban Singh, resident of 540, GTB Nagar, Jalandhar and Kamaljit Kaur wife of Satjot Singh Brar son of Meharban Singh, resident of 540, GTB Nagar, Jalandhar. Both of them have appeared and have made statements qua the compromise.*

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2. *As per statement of SI Ramesh Kumar none of the accused is absconding or has been declared proclaimed offender.*
3. *As per statement of SI Ramesh Kumar there is only one complainant/aggrieved person i.e. Joginder Pal son of Lakhmi Dass, resident of 75/12, Garden Colony, near GTB Nagar, Jalandhar. Said Joginder Pal has appeared and made his statement in support of the compromise.*
4. *As per statement of SI Ramesh Kumar, in this case, the investigation is pending and challan has not been presented in the Court.*
5. *As per statements of parties i.e. respondent no.2/complainant Joginder Pal and that of accused/petitioners Kamaljit Kaur and Satjot Singh the compromise is genuine and voluntary and has been arrived at between the parties out of their free will.*
6. *As per statement of SI Ramesh Kumar no other criminal case is pending against any of the accused.*

Photostat copies of the statements of the parties and SI Ramesh Kumar are attached herewith for the kind perusal of His Lordship.

Submitted please.

Yours faithfully,

*Manmohan Bhatti, PCS,
Judicial Magistrate 1st Class,*

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Jalandhar. (Duty) ”

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 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 families.

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 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**

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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”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.51 dated 09.04.2021, registered under Sections 406

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and 120-B of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Division No.6, Jalandhar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 29, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No