

218

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

CRM-M-32269-2021

Date of decision : 29.09.2021

Manish @ Goldy

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. L.S. Mann, Advocate for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Manoj R. Sharma, Advocate for respondent Nos.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.102 dated 28.10.2019 registered under Sections 279, 337, 338 of the Indian Penal Code, 1860 (Annexure P-1) at Police Station SGN Dev Thermal Plant, District Bathinda and all the subsequent proceedings arising therefrom on the basis of the compromise dated 04.08.2021 (Annexure P-2) qua the petitioner.

On 12.08.2021, the Coordinate Bench of this Court was pleased to pass the following order:-

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

The petitioner has filed present petition under Section

482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.102 dated 28.10.2019 registered under Sections 279, 337 and 338 of the Indian Penal Code, 1860 in Police Station SGN Dev Thermal Plant, District Bathinda and all subsequent proceedings arising therefrom on the basis of compromise dated 04.08.2021.

Notice of motion.

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

Mr. Manoj R. Sharma, Advocate has appeared on behalf of respondents No.2 and 3 and undertakes to file his power of attorney in the Registry.

Learned Counsel for respondents No.2 and 3 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 24.08.2021 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 29.09.2021 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, Bathinda. The relevant portion of the said report is reproduced hereinbelow:-

“After going through the statements given by the parties, Investigating Officer and criminal Ahlmad of this Court, the report of trial Court/Illaqa Magistrate is hereby submitted on the following information as directed by the Hon'ble Punjab & Haryana High Court.

<i>1</i>	<i>Number of persons arrayed as accused in FIR</i>	<i>As per the statement of Investigating Officer, ASI Navyugdeep Singh, one accused person namely Manish Kumar @ Goldy is arrayed as accused in FIR No.102 dated 28.10.2019, under Sections 279/337/338 of Indian Penal Code, Police Station Thermal, Bathinda. No other person except above is arrayed as accused.</i>
<i>2</i>	<i>Whether any accused is proclaimed offender, and</i>	<i>As per the statement suffered by Investigating Officer, ASI Navyugdeep Singh and also as per judicial record, accused Manish @ Goldy is not proclaimed offender nor ever declared proclaimed offender by the court.</i>

3	<i>Whether the compromise is genuine, voluntary and without any coercion or undue influence</i>	<i>In view of statement suffered by complainant Rahul Kumar and accused Manish @ Goldy, it is hereby submitted that the trial Court is satisfied that the compromise arrived between the complainant/victim and accused is genuine, voluntary and without any coercion and undue influence. It is further submitted that the complainant Rahul Kumar has also suffered statement on behalf of his daughter Bhawna, who is minor, aged about 6 years, in the capacity of natural guardian that both complainant as well as the victim have no grudge against accused and both complainant and victim have settled the matter amicably with the accused.</i>
4	<i>Whether the accused persons are involved in any other case or not?</i>	<i>In view of statement of the Investigating Officer ASI Navyugdeep Singh, the accused person is not involved in any other case.</i>
5	<i>Current stage of the case</i>	<i>Final report under Section 173 Cr.P.C. already submitted and case is at the stage of arguments on charge.</i>

Further, as directed by Hon'ble Punjab & Haryana High Court, it is hereby submitted that in view of the statement of Investigating Officer ASI Navyugdeep Singh, there is one complainant namely Rahul Kumar and there is one victim namely Bhawna, in the present FIR.

Accordingly, the report of the trial Court/Illaq Magistrate on points No.1 to 5 as directed by the Hon'ble Punjab & Haryana High Court alongwith statements of parties, statement of Investigating Officer ASI Navyugdeep Singh & statement of Ahlmad Ms. Vatsal is submitted for your kind perusal, information and necessary action. The next date before the Hon'ble High Court is 29.9.2021

Submitted please.

Yours faithfully

Sd/- (Harjot Singh Gill), PCS

Enclosures: As above.

*Judicial Magistrate Ist Class,
Bathinda."*

A perusal of the said report would show that the compromise has been found to be genuine, voluntary, without any coercion or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioner has submitted that the petitioner was 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 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.

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 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.102 dated 28.10.2019 registered under Sections 279, 337, 338 of the Indian Penal Code, 1860 (Annexure P-1) at Police Station SGN Dev Thermal Plant, District Bathinda and all the subsequent proceedings arising therefrom on the basis of the compromise dated 04.08.2021 (Annexure P-2) are ordered to be quashed, qua the petitioner.

29.09.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**