

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-33786-2021

Date of decision : 26.11.2021

Mohd. Ali and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Imran Farooqi, Advocate
for the petitioners.

Mr.Sarabjit Singh, AAG, Punjab.

Mr.Ravi Malik, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.101 dated 14.09.2020 registered under Sections 341, 323, 324, 148, 149 IPC (379, 201 IPC added later on) at Police Station City II, Malerkotla, District Sangrur and all other consequential proceedings arising therefrom, on the basis of compromise dated 04.08.2021 (Annexure P-2).

On 25.08.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“ By filing this petition, quashing of FIR No.101 dated 14.09.2020 under Sections 341, 323, 324, 148, 149 and 379/201 (added lateron) of the Indian Penal Code, registered at P.S City-II, Malerkotla, District Sangrur and all other consequent proceedings arising therefrom

has been sought on the basis of compromise/affidavit dated 04.08.2021 (Annexure P-2).

Notice of motion.

Mr. Sarabjit Singh, AAG, Punjab accepts notice on behalf of respondent No.1-State.

*Parties may appear before concerned trial Court/Duty Magistrate on **20.09.2021** or on any other date convenient to the said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report:*

- i) regarding genuineness and voluntary nature of the compromise;*
- ii) whether all the accused/petitioners are appearing before the Court or are on bail; and*
- iii) whether any other proceeding is pending against the accused/petitioners.*

*Adjourned to **26.11.2021**”*

In pursuance to the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Malerkotla. The relevant portion of the said report is reproduced hereinbelow:-

“In view of statements of present parties, it is apparent that the matter has been compromised between the parties of quashing petition. Report is submitted specifying the following:

- 1. The compromise is genuine, voluntarily and out of free will of the parties.*
- 2. As per record, there are two accused namely Sanju and Ali against whom present FIR is lodged. It is further submitted that in the first Information given by complainant, he has also named one Chajju, and 5-6 unknown persons. Accused Mohd. Dansih (@ Sanju is*

on regular bail in this case but is in custody in some other case and accused Mohd. Ali and Mohd. Ikram Bhura have been granted anticipatory bail by Id. Appellate Court.

3. As per statement of accused Mohd. Ali and as per record, no other proceeding is pending against him.

As per statement of accused Mohd. Ikram (@ Bhura and as per record, except this case another four cases are pending against him i.e. FIR no.19 of 2016 under Section 323, 325, 34 IPC, P.S. City I, Malerkotla, FIR no.48 of 2017 under Section 399 IPC, P.S. City II, Malerkotla, FIR no.09 of 2017 under Section 452, 323, 382 P.S. Sadar Ahmedgarh and FIR no.132 dated 22.12.2020 under Section 452, 323, 324 IPC, P.S. City II, Malerkotla.

As per statement of accused Mohd. Danish @ Sanju and as per record, except this case another four cases are pending against him i.e. FIR no.06 dated 09.01.2021, under Section 452, 323, 324, 427, 34 IPC, P.S. City 1, Malerkotla, FIR no.132 dated 22.12.2020 under Section 452, 323, 324, 427, 34 IPC, P.S. City II, Malerkotla, FIR no.49 dated 28.05.2021, under Sections 307, 452, 323, 506, 148, 149 IPC, P.S. City I, Malerkotla and FIR no.120 dated 02.09.2021, under Sections, 307, 341, 148, 149, 120-B IPC, P.S.City I, Malerkotla.

Accordingly report is being submitted please. ”

A perusal of the above said report would show that the compromise in the present case has been found to be genuine, voluntarily and out of free will of the parties. However, in the report, it is mentioned that some of the accused are involved in some other cases but the same should not come in the way of quashing of the present FIR as the compromise has been found to be genuine, voluntarily and out of free will

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and were not declared proclaimed person / offender in the present case.

Learned counsel for respondent no.2-complainant 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 parties. He 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 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 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, this petition is allowed and FIR No.101 dated 14.09.2020 registered under Sections 341, 323, 324, 148, 149 IPC (379, 201 IPC added later on) at Police Station City II, Malerkotla, District Sangrur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 26, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No