IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-33985-2021
Date of decision : 15.11.2021

Balraj Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sidhant Vermani, Advocate for
Mr.Prateek Sodhi, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

Mr.Umesh Aggarwal, Advocate
for respondents no.2 & 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of case DDR no.0038 dated 03.07.20217 registered under Sections 323, 325, 148, 149 IPC in FIR No.0084 dated 14.06.2017 registered at Police Station Majitha, Amritsar Rural and all other consequential proceedings arising therefrom on the basis of compromise dated 12.08.2021 (Annexure P-3).

On on 27.08.2021, this Court had passed the following order:-

"This is a petition under Section 482 Cr.P.C. for quashing of DDR No.0038 dated 03.07.2017 under Sections 323, 325, 148 and 149 IPC, registered in FIR No.84 dated 14.06.2017 at Police Station, Majitha, Amritsar Rural and all other consequential proceedings arising therefrom on the basis of compromise dated

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this order

12.08.2021 (Annexure P-3).

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

Notice of motion.

On the asking of the Court, Mr. Saurav Khurana, DAG, Punjab, accepts notice on behalf of respondent No.1 and Mr. Umesh Aggarwal, Advocate, accepts notice on behalf of respondent Nos.2 and 3. Learned counsel for respondent Nos.2 and 3 states that respondent Nos.2 and 3 have no objection in case the entire DDR is quashed.

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.

Adjourned to 15.11.2021."

In pursuance to 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:-

"I am satisfied that compromise is genuine and has been

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> *effected between the parties voluntarily, without any coercion or undue influence. It is further submitted that as per the statement of investigating officer ASI Kulwant Singh No.528/ASR (Rural), Police Station Majitha, Amritsar, there are seven accused involved in the present case namely Balraj Singh, Jagjit Singh, Balwinder Singh, Bhupinder Singh, Jaswinder Singh, Sarabjit Singh and Kartar Singh. The accused have never been declared as proclaimed offender in the present case. The accused Bhupinder Singh and Sarabjit Singh are involved in one other case bearing FIR No.103, dated 19.6.2019, under Section 326/34 IPC, Police Station Majitha, Amritsar. The accused Jaswinder Singh and Sarabjit Singh are also involved in one other case bearing FIR No.52 dated 18.04.2010, under Section 452/427/506/148/149 IPC, Police Station Majitha, Amritsar. There is only one complainant in the present FIR namely Balbir Singh son of Jarnail Singh. There is one injured in the present FIR namely Avtar Singh son of Balbir Singh.*
>
> *The 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 voluntarily, without any coercion or undue influence. The accused persons are involved in other cases, however, the same cannot be come in the way of the present petition being allowed on the basis of compromise.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offender in the present case.

Learned counsel for the State has stated that DDR was registered against seven persons out of which six persons have been exonerated and it is only the present petitioner who was not exonerated. He

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has no objection in case the DDR is quashed on the basis of compromise.

Learned counsel for respondent nos.2 and 3-complainant and injured respectively 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 DDR and subsequent proceedings may be quashed.

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 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*

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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 DDR no.0038 dated 03.07.20217 registered under Sections 323, 325, 148, 149 IPC in FIR No.0084 dated 14.06.2017 registered at Police Station Majitha, Amritsar Rural and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

November 15, 2021
Davinder Kumar

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

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