

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35675-2021

Date of decision : 15.11.2021

Joginder Singh and others

... Petitioners

Versus

The State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Balbir Singh Jaswal, Advocate
for the petitioners.

Mr.Karanbir Singh, AAG, Punjab.

Mr.Rahul Sharma, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of case FIR No.92 dated 03.08.2017 (Annexure P-1) registered under Sections 452/324/506/427 IPC (Section 326 IPC added later on) at Police Station Chatiwind, District Amritsar and all other consequential proceedings arising therefrom on the basis of compromise deed dated 02.06.2021 (Annexure P-2).

On on 01.09.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No. 92 dated 03.08.2017 registered under Sections 452, 324, 506, 427 of the Indian Penal Code (Section 326 IPC added later on) at Police Station City Chatiwind, District Amritsar (Annexure P-1) and subsequent proceedings arising therefrom on the basis of compromise dated

02.06.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted that all the persons concerned are parties to the compromise.

Notice of motion for 15.11.2021.

On asking of the Court, Mr. P. S. Walia, Assistant Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Ms. Reena Verma, Advocate appears on behalf of respondent No. 2.

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.”*

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:-

“3. Statement of investigating officer SI Harmeet Singh, ASR, Police Station Chattiwind (Amritsar) has also been recorded to the effect that there are five

accused persons involved in the present case namely Joginder Singh, Balwinder Singh, Ajit Singh, Gurmej Singh and Shamsher Singh and they are not involved in any other FIR. There is only one complainant, i.e. Gulbag Singh and one victim/injured namely Karam Singh in present case. He has further stated that no accused has ever been declared as proclaimed offender in the present case.

4. *From the statement of complainant Gulbag Singh and accused persons so recorded by the undersigned, the compromise arrived at between the parties apparently appears to be genuine, voluntary and out of free will of the parties, without there being any sort of pressure or coercion from any corner.*

5. *Kindly find enclosed herewith photocopies of statements of the complainant, accused persons, photocopies of their aadhar cards and photocopy of statement of SI Harmeet Singh No.352, Police Station Chattiwind (Amritsar).*

7. *The report with regard to compromise on the basis of the parties along with statements of the parties, as directed by the Hon'ble High Court, is accordingly being submitted for perusal by His Lordship please.*

Accordingly, the report is being submitted.”

A perusal of the above said report would show that the compromise in the present case has been found genuine, voluntary and without any pressure or coercion.

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 has stated that he has no

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.

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 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.92 dated 03.08.2017 (Annexure P-1) registered under Sections 452/324/506/427 IPC (Section 326 IPC added later on) at Police Station Chatiwind, District Amritsar, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 15, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No