

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

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**CRM-M-35823-2021
Decided on : 13.10.2021**

Amit Kumar and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Kanwar Pahul Singh, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 01 dated 01.01.2020 registered under Sections 406 and 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act registered at Police Station City Nawashahar, District SBS Nagar (Annexure P-2) and all subsequent proceedings arising therefrom on the basis of the compromise dated 30.07.2021 (Annexure P-3).

When the matter came up before this Court on 01.09.2021, the following order was passed:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No. 1 dated 01.01.2020 registered under Sections 406, 420 of the Indian Penal Code, 1860, Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act at Police Station City

Nawanshahar, District SBS Nagar (Annexure P-2) and subsequent proceedings arising therefrom on the basis of compromise dated 30.07.2021 (Annexure P-3).

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

Notice of motion for 13.10.2021.

On asking of the Court, Mr. P. S. Walia, Assistant Advocate General, Punjab appears and accepts notice on behalf of the respondent-State.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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 of the said order, a report has been submitted by the Chief Judicial Magistrate, SBS Nagar to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“(i) Two accused namely Lovejeet Singh and Amit Kumar were arraigned as accused in the present case.

(ii) *In the present case, no accused has been declared as proclaimed offender.*

(iii) *On the basis of statements suffered before this Court by the parties, this Court is of the considered view that the compromise entered between the parties i.e. first informant Gurpreet and accused persons namely Lovejeet Singh and Amit Kumar is genuine, voluntary and without any coercion or undue influence.*

(iv) *As per the statement recorded by IO/ASI Ram Singh before this Court, FIR No. 71 dated 25.05.2019, under Section 13 of Punjab Prevention of Human Smuggling Act, P.S. A-Division, Amritsar and FIR No. 16 dated 14.02.2019, under Section 420 of IPC, P.S. Dhariwal, District Gurdaspur have been registered against accused Amit Kumar, apart from the present FIR.*

However, accused in his statement recorded before the Court, has mentioned regarding registration of FIR No. 21 dated 26.05.2017, under Sections 420, 468, 471, 120-B of IPC, P.S. Airport, FIR No. 16 dated 14.02.2019, under Section 420 of IPC, P.S. Dhariwal, District Gurdaspur, FIR No. 134 dated 02.05.2020, under Sections 420, 120-B of IPC, Police Station A-Division, Amritsar and FIR No. 74 dated 25.05.2019, under Section 13 of Punjab Prevention of Human Smuggling Act, P.S. A-Division, Amritsar against him.

Further, as per statement of the IO, no FIR has been found to be registered against accused Lovejeet Singh apart from the present FIR i.e. FIR No. 01 dated 01.01.2020, under Sections 406, 420 of IPC, Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act, P.S. City, Nawashahr, District SBS Nagar.

However, accused Lovejeet Singh in his statement recorded before the Court has stated regarding registration of FIR No. 112 dated 17.09.2017, under Sections 307, 323, 324, 34 of IPC & Section 25/27 of Arms Act, P.S. Chatiwind, Amritsar against him.

(v) As per the statement recorded by IO/ASI Rajinder Kumar before this Court, complainant of the present case is Gurpreet son of Mahinder Pal, who is the only victim in the present case.

The report is, therefore, submitted for the kind consideration of the Hon'ble High Court please.”

A perusal of the said report would show that although, it has been stated that some of the parties are involved in other cases also, however, it has also been recorded that as far as the present case is concerned, 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 petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case.

Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 01 dated 01.01.2020 registered under Sections 406 and 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act registered at Police Station City Nawashahar, District SBS Nagar (Annexure P-2) and all subsequent proceedings arising therefrom on the basis of the compromise arrived at between the parties, vide compromise dated 30.07.2021 (Annexure P-3), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

13.10.2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No