

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-36200-2021

Date of decision : 18.11.2021

Neelam Kumari and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vipin Mahajan, Advocate
for the petitioners.

Mr.Karanbir Singh, AAG, Punjab.

Mr.Vikas Kumar, 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 23.05.2021 (Annexure P-1) registered under Sections 323, 341, 506, 188, 34 IPC at Police Station Mukerian, District Hoshiarpur and all other consequential proceedings arising therefrom on the basis of compromise dated 22.07.2021 (Annexure P-8T).

On 06.09.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“Prayer made in this petition is for quashing of FIR as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 18.11.2021.

In the meanwhile, parties would appear before the Illaqa Magistrate on 17.09.2021 for recording their statements. The concerned court would file its report in

the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender / person.”

In pursuance to the said order, a report dated 23.09.2021 has been submitted by the Sub Divisional Judicial Magistrate, Mukerian. The relevant portion of the said report is reproduced hereinbelow:-

“In compliance to the aforesaid order, it is respectfully submitted that the point-wise report of undersigned is as follows:-

i. It is submitted that the present FIR was registered against accused Neelam Kumari, accused Naresh Kumar, accused Abishek Singh, accused Sidharat Thakur and accused Rajesh Thakur @ Bablu. Now all the accused have appeared before this Court to record their statements.

ii. It is submitted that as per the statement of Investigating Officer, the parties are not involved in any other criminal case and none of the accused have been declared proclaimed offender / proclaimed persons in the present case or in any other case.

iii) In view of the statement recorded by both the parties, this Court is satisfied that the compromise effected between them is genuine, which is not the result of any undue pressure or coercion.

iv) As per the statement of IO, there is one complainant i.e. Complainant / respondent no.2 Balbir Singh son of Gurdas Ram in the present case.

As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself.”

A perusal of the above said report would show that the

compromise in the present case has been found genuine 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 reaffirmed these facts and has stated that he has no objection in case the FIR is quashed on the basis of compromise.

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 23.05.2021 (Annexure P-1) registered under Sections 323, 341, 506, 188, 34 IPC at Police Station Mukerian, District Hoshiarpur, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 18, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No