

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M-36217-2021
Decided on : 11.11.2021

Gursewak Singh and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL
(Through Video Conferencing)

PRESENT: Mr. Ramandeep, Advocate
for the petitioners.

Mr. A. K. Kaundal, DAG, Punjab.

Mr. Gurcharan Singh Bains, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 79 dated 13.04.2021 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 registered at Police Station City Samana, District Patiala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 19.08.2021 (Annexure P-2).

When the matter came up before this Court on 03.09.2021, the following order was passed:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.79 dated 13.04.2021 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station City Samana, District Patiala and all the subsequent proceedings arising therefrom on the basis of compromise

dated 19.08.2021 (Annexure P-2).

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

Notice of motion for 11.11.2021.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Gurcharan Singh Bains, 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 of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Samana to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“After going through the statemetns given by complainant, accused persons and investigating officer in the Court, the following report as desired by the Hon'ble High Court is submitted:

- i) Two above named persons namely Gursewak Singh and Gurmukh Singh are arrayed as accused in this case*

- ii) No accused has been declared as proclaimed offender,*
- iii) Compromise between the parties is valid and genuine and it is voluntarily effected between the parties with their free consent and without any pressure, threat, coercion or undue influence from any quarter.*
- iv) As per statement of Investigating Officer, accused Gursewak Singh is not involved in any other FIR. Whereas accused Gursewak Singh was earlier involved in case FIR No. 299 dated 20.01.2011, under Sections 147, 148, 149, 323, 307, 506 IPC and 25/54/59 Arms Act, P.S. City Hisar and in the said case accused has been acquitted vide judgment dated 08.11.2011.*
- v) There is only one complainant/victim in this FIR namely Rajwinder Singh s/o Sukhveer Singh r/o Gree City, Tehsil Samana, District Patiala.*

This report along with statements of parties and annexures is submitted as desired by the Hon'ble High Court vide its order dated 03.09.2021.

Submitted please."

A perusal of the said report would show that it has been stated that 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 petitioner were declared proclaimed offender in the present case.

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

Learned counsel for respondent No. 2-complainant has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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”

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 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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 79 dated 13.04.2021 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 registered at Police Station City Samana, District Patiala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 19.08.2021 (Annexure P-2), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

11th November, 2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No