

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

(235)

CRM-M-36538-2021.
Date of Decision:-29.11.2021.

Rajwant Kaur @ Tammana Sharma and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Arora, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Parminder Singh Panwar, Advocate for
respondent Nos.2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.92 dated 29.03.2020, registered under Sections 420 and 120-B of IPC at Police Station City Tarn Taran, District Tarn Taran (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

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

*“Present petition has been filed for quashing of FIR
No.92 dated 29.03.2020 (Annexure P-1) registered under
Sections 420 and 120-B IPC, at Police Station City Tarn Taran,*

District Tarn Taran, on the basis of compromise entered into between the parties.

Learned counsel for the petitioners argues that in order to live peacefully, parties have entered into compromise (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent No.1-State.

Mr. Parminder Singh Panwar, who has also joined the proceedings through video conference, accepts notice on behalf of respondent Nos.2 and 3. He does not dispute the above-said compromise which has been arrived at between the parties, according to which complainant does not wish to press the allegations alleged in the FIR any further.

Adjourned to 29.11.2021.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise (P-2) on 25.10.2021 by moving an appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information: -

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a 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; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR.*

The question of imposition of cost for wasting the valuable time of the police as well as the Court will be assessed and imposed at the time of the final hearing of the present petition in case, the FIR is to be quashed.”

In pursuance of the said order, the report has been submitted by the Chief Judicial Magistrate, Tarn Taran to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Except complainant Pawan Arora, no other complainant or victim is involved in this FIR. Except above mentioned three persons, no one else is arrayed as accused in this FIR. None of above said accused is involved in any other FIR. No one is declared Proclaimed Offender. Investigation is still in progress and Challan is yet to be presented in the court.

The parties suffered their statements voluntarily before Court as they have compromise their dispute with the intervention of respectable of locality which seems to be genuine.

Report submitted for kind perusal.

Sd/-

*(RAJESH AHLUWALIA), PCS
Chief Judicial Magistrate,
Tarn Taran (UID No.PB-0281)
25.10.2021”*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with their own free will and without any coercion. The compromise has been found to be genuine and valid. As per the said report, it has been observed that none of the persons have been declared as proclaimed offenders in the present case and no other case is pending between the parties.

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, as per instructions, has stated that this fact is correct.

Learned counsel for respondent Nos.2 and 3 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.

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

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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”

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In view of what has been discussed hereinabove, this petition is allowed and FIR No.92 dated 29.03.2020, registered under Sections 420 and 120-B of IPC at Police Station City Tarn Taran, District Tarn Taran (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

With regard to the imposition of costs as observed in the last order, learned counsel for the petitioners has submitted that the petitioners are poor persons and have appeared on the first date for recording of statements after the order dated 06.09.2021 was passed and the matter has been compromised and has thus prayed that no cost be imposed.

In view of the same, the petition is allowed with no imposition of cost.

(VIKAS BAHL)
JUDGE

November 29, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No