CRM-M-37920-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(239)

CRM-M-37920-2021.
Date of Decision:-20.12.2021.

Manpreet @ Mani and others

……Petitioners

Versus

State of Punjab and others

……Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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Present: Mr. Shiva Khurmi, Advocate for
Mr. Sarfraj Hussain, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

None for respondents No.2 to 4.

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VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.256 dated 13.10.2015, registered under Sections 307, 323, 148, 149 of IPC and Section 27/54/59 at Police Station Sohana, District SAS Nagar, Mohali (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 26.08.2021 (Annexure P-2).

On 20.09.2021, this Court was pleased to pass the following order:-

"This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.256 dated 13.10.2015 registered under Sections 307, 323, 148, 149 of the Indian Penal Code, 1860

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2021.12.21 18:34
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and Sections 27/54/59 of the Arms Act, 1959 at Police Station Sohana, District SAS Nagar, Mohali (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexures P-2, P-3 and P-4).

Learned counsel for the petitioners has submitted that the present case is a case of version and cross-version.

On advance notice, learned counsel for the State had appeared on the last date of hearing and he was directed to verify the fact that as to whether Section 307 of IPC has been deleted or not.

Learned counsel for the State has pointed out that vide DDR No.5 dated 15.10.2015, offence under Section 307 of IPC has been deleted.

Notice of motion for 20.12.2021.

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

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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, the report has been submitted by the Judicial Magistrate 1st Class, SAS Nagar to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

"6. I am satisfied that the compromise arrived at between the parties is genuine, voluntarily, with their free consent, without any fear, undue influence or coercion. There are two injured namely Sarwan Kaur and Naib Singh besides complainant Nachattar Singh. None of the accused was ever declared as proclaimed person in the present case. Except the present case, no other criminal case is pending against the accused. Complainant Nachattar Singh as well as the injured Sarwan Kaur and Naib Singh, have stated in their joint statement before the undersigned that they have compromised the matter voluntarily, with their free consent, without any fear, undue influence or coercion, with all the accused persons involved in the present case and they have no objection if the present FIR be quashed against all the accused.

7. The statements of complainant/injured, accused alongwith their respective counsels & investigating officer and photocopy of compromise & Aadhar Card are attached herewith for the kind perusal.

The report is submitted accordingly.

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2021.12.21 18:34
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Yours faithfully

Dated: 01.11.2021 *Sd/-*

(Mukesh Kumar Singla),
Judicial Magistrate, Ist Class,
SAS Nagar. UID No.PB0475.

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 against the petitioners.

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 these facts are correct.

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

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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 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.256 dated 13.10.2015, registered under Sections 307, 323, 148, 149 of IPC and Section 27/54/59 at Police Station Sohana,

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District SAS Nagar, Mohali (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 20, 2021.
sandeep
Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No

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