

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38039-2021

Date of decision : 29.10.2021

Chander Bhushan Tuli and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Edward Augustine George, Advocate
for the petitioners.

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

Mr.Arshdeep Bhullar, Advocate
for respondents no.2 & 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of case FIR No.86 dated 16.09.2020 (Annexure P-1) registered under Sections 380, 420, 467, 468, 471, 120-B IPC (Section 419 IPC added vide order dated 01.10.2021) at Police Station Phase-8 Mohali and all other consequential proceedings arising therefrom on the basis of compromise deed dated 09.08.2021 (Annexure P-4).

On 14.09.2021, a co-ordinate Bench of this Court has passed the following order:-

“The petitioners are seeking quashing of FIR No.86 dated 16.09.2020 under Sections 380, 420, 467, 468, 471, 120-B IPC, registered at Police Station Phase-8, Mohali, on the basis of compromise deed dated 09.08.2021 (Annexure P-4), which has been arrived at between the parties.

Learned counsel for the petitioners contends that FIR is outcome of a property dispute, which has now been resolved and the matter has been compromised. A copy of the compromise is annexed as Annexure P-4.

Issue notice to the respondents.

At the asking of the Court, Mr. Dhruv Dayal, Senior DAG, Punjab accepts notice on behalf of respondent No.1-State.

Mr. Arshdeep Bhullar, Advocate has put in appearance on behalf of respondents No.2 and 3. He states that the matter has indeed been compromised with respondent No.2, who is the complainant. He further states that respondent No.3 is an Australian citizen and he may be permitted to appear through power of attorney or through video conferencing.

List on 29.10.2021.

In the meantime, the parties are directed to appear before Illaqa Magistrate/trial Court on 01.10.2021. The Illaqa Magistrate /trial Court shall record their statements with regard to the genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.

Respondent No.3 may appear through power of attorney and video conferencing.”

In pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, SAS Nagar Mohali. The relevant portion of the said report is reproduced hereinbelow:-

“The report of the undersigned is as under:-

- 1. The compromise Annexure P-4 arrived at between the parties is genuine, voluntarily and without any coercion or undue influence.*
- 2. As per the record available with the*

undersigned and from the perusal of the statements of the parties, no other case is pending against the accused and none of the accused have been declared proclaimed offender / person in this case.

Therefore, the report with regard to the genuineness of the compromise effected between the parties along with the copies of the statements of the complainant / informant, statements of the accused and the documents placed on record today be submitted through Proper Channel to the Hon'ble Punjab and Haryana High Court, Chandigarh, well before the date fixed i.e. 29.10.2021.

Report is submitted for kind perusal and necessary action please.”

A perusal of the said report would show that the compromise effected between the parties has been found genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of compromise.

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. He prayed that FIR and subsequent proceedings may 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

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 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.

In view of what has been discussed hereinabove, this petition is

allowed and FIR No.86 dated 16.09.2020 (Annexure P-1) registered under Sections 380, 420, 467, 468, 471, 120-B IPC (Section 419 IPC added vide order dated 01.10.2021) at Police Station Phase-8 Mohali and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

October 29, 2021
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No