

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

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**CRM-M-39567-2021
Decided on : 15.12.2021**

Jiwan Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. J. K. Singla, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Prince Pushpinder Rana, Advocate for
Mr. Kashish Garg, Advocate
for respondent Nos. 2 to 4.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 70 dated 11.08.2021 registered under Sections 452, 323, 148 and 149 of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Phool, District Bathinda (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise deed dated 09.09.2021 (Annexure P-3).

When the matter came up before this Court on 24.09.2021, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.70 dated 11.08.2021 registered under Sections 452, 323, 148, 149 of the Indian Penal Code, 1860 (Act No.45 of 1860) at Police Station Phool, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-3).

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

Notice of motion for 15.12.2021.

On asking of the Court, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the respondent-State and Mr. Kashish Garg, Advocate appears on behalf of the private respondents.

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 Sub Divisional Judicial Magistrate, Phul to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“The point wise report is as under:-

- 1. As per the statement of SI Gurcharan Singh No. 978/BTI, P.S. Phul there are only five accused in the present case. As per the statement of complainant Baachan Singh, Jaspal Singh @ Jass and Sukhpreet Singh, the present*

FIR was lodged by them against accused Jiwan Singh, Sukhjinder Singh and baldev Singh, (both minors through their mother Ranjit Kaur), Bahadar Singh and Sukhveer Singh only.

- 2. As per the statement of SI Gurcharan Singh No. 978/BTI, P.S. Phul no accused has been declared proclaimed offender.*
- 3. The compromise effected between the parties appears to be genuine and valid and without any coercion or undue influence.*

Statements of parties were duly recorded before the undersigned and they were duly identified by their respective counsel.

- 4. As per the statement of SI Gurcharan Singh No. 978/BTI, P.S. Phul, none of the accused person is not involved in any other FIR.*
- 5. As per the statement of SI Gurcharan Singh No. 978/BTI, P.S. Phul, there is one complainant/victim namely Bachan Singh and two witnesses namely Jaspal Singh @ Jass and Sukhpreet Singh in the present case.*

Accordingly, the compliance report is sent herewith for your kind perusal please alongwith the statements of complainant Bachan singh, Jaspal Singh @ Jass and Sukhpreet Singh and accused persons Jiwan Singh, Sukhjinder Singh and Baldev Singh, (both minors through their mother Ranjit Kaur), Bahadar Singh and Sukhveer Singh. Photocopies of Aadhar Cards of complainant and accused persons as Mark-A to Mark-C and Mark-D to Mark-H.

Thanking you.”

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 petitioners were declared proclaimed offender in the present case and are not involved in any other case. Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent Nos. 2 to 4 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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.

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"

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 70 dated 11.08.2021 registered under Sections 452, 323, 148 and 149 of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Phool, District Bathinda (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise deed dated 09.09.2021 (Annexure P-3), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 15th, 2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No