

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

Date of decision : 03.12.2021

1.

CRM-M-34584-2020

Joginder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

2.

CRM-M-27921-2021

Pawan Chabbra

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Armaan Gagneja, Advocate
for the petitioner in both the petitions.

Mr.Sarabjit S.Cheema, AAG, Punjab.

Mr.Nirbhay Singh Gill, Advocate
for respondent no.2 in both the petitions.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This order will dispose of the aforesaid two petitions. The first petition CRM-M-34584-2020 has been filed by Joginder Singh (petitioner therein) and the second CRM-M-27921-2021 has been filed by Pawan Chabbra (petitioner therein). In both cases, the petitions have been filed under Section 482 Cr.P.C. for quashing of FIR no.0001 dated 02.01.2019 registered under Section 420 IPC at Police Station Sadar, District Sri

Muktsar Sahib and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

The complainant in both the cases is Surinder Kumar.

Initially Joginder Singh had filed a petition CRM-M-34584-2020 for quashing of aforesaid FIR qua him alone, and in the said case, report dated 11.05.2021 has been submitted by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, in pursuance of the order dated 09.04.2021 passed by a co-ordinate Bench of this Court. The relevant portion of the said report is reproduced hereinbelow:-

- “1. There are two numbers of persons arraigned in the FIR as accused;*
- 2. As per record and statement of accused Joginder Singh and statement of investigating officer, none of accused is absconding or declared as proclaimed offender in the case;*
- 3. The compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence;*
- 4. As per the statement of Investigating Officer, the accused persons are not involved in any other FIR; and*
- 5. The challan has not yet been presented before the Court in the present FIR.”*

It is apparent that subsequently the second accused, i.e. Pawan Chabhra had also filed CRM-M-27921-2021 for quashing of the said FIR on the basis of compromise. In the said petition, on 23.07.2021 a co-ordinate Bench of this Court was pleased to pass the following order:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Prayer in this petition is for quashing the FIR No.0001 dated 02.01.2019 under Section 420 IPC

registered at Police Station Sadar, District Sri Muktsar Sahib, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 29.03.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that FIR is an outcome of a property dispute between the parties, which has been settled by virtue of compromise, Annexure P-2. He has referred to Para 9 of the petition to submit that the petitioner has not been declared as a Proclaimed Offender.

Notice of motion.

On asking of the Court, Mr. Sandeep Singh Deol, DAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State. Mr. Nirbhai Singh Gill, Advocate accepts notice on behalf of the complainant/respondent No.2. He admits the factum of compromise effected between the parties.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on 11.08.2021 or any date within the period of one month thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties.

5. whether any other criminal case is pending against the accused.

Report of Illaqa Magistrate/trial Court be awaited for 08.09.2021.

To be heard with CRM-M-34584-2020.”

In pursuance of the said order, report has been submitted by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, dated 11.08.2021.

The relevant portion of the said report is reproduced hereinbelow:-

“In view of the aforesaid statements, the report as desired by Hon'ble Punjab and Haryana High Court is hereby submitted as follows:-

1. There are two persons arraigned in the FIR as accused namely Pawan Chabbra and Joginder Singh. As per record and statement of investigating officer, none of accused is absconding or declared as proclaimed offender in the case;

2 The name of the complainant is Surinder Kumar and there is only one complainant/aggrieved person in the present FIR. Complainant Surinder Kumar has appeared and made his statement in support of the compromise.

3. The FIR is still under investigation and challan has not yet been presented.

4. The compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence; and

5 As per the statement of Investigating Officer, the accused persons are not involved in any other FIR;

Therefore report alongwith statements of parties as desired by Hon'ble High Court is submitted with a request to put up before Hon'ble Punjab & Haryana

High Court in CRM-M-29721 of 2021 pending for 08.09.2021.”

A perusal of the above said reports would show that that there were two persons who were arrayed as accused in the FIR in question and that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that initially in fact there were four accused, but two persons were not challaned and only Joginder Singh and Pawan Chabbra were challaned. It is also submitted that there is no other FIR against the petitioners and they were not declared proclaimed offenders in the present case.

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 no.2-complainant 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.

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

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”

In view of what has been discussed hereinabove, both the petitions are allowed and FIR no.0001 dated 02.01.2019 registered under Section 420 IPC at Police Station Sadar, District Sri Muktsar Sahib and all the subsequent proceedings emanating therefrom, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 03, 2021

Davinder Kumar

DAVINDER KUMAR
2021.12.06 18:23
I attest to the accuracy of
this order

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No