

CRM-M-39931-2021

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

(229)

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Date of Decision:-13.12.2021.

Mukesh Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Balraj Singh Sidhu, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab, for
Respondent No.1.

None for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.86 dated 19.04.2019, registered under Sections 465, 467, 468 and 471 of IPC, at Police Station Civil Lines Bathinda (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 08.03.2021 (Annexure P-2).

On 24.09.2021, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.86 dated 19.04.2019 registered under Sections 465,467, 468, 471 of the Indian Penal Code, 1860 at Police Station Civil Lines Bathinda, District Bathinda and all the

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subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

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

Notice of motion for 13.12.2021.

On asking of the Court, Mr. Saurav Khurana, Deputy Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Gurmeet S. Saini, Advocate appears on behalf of respondent No.2.

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, the report has been submitted by the Chief Judicial Magistrate, Bathinda to the Registrar General of this

Court. The relevant part of the report is reproduced hereinbelow:-

“As per the directions of Hon’ble High Court, the report is as under:-

- 1. In view of the statements of the complainant as well as Investigating Officer, two persons i.e., petitioners, namely Mukesh Kumar and Jonny alias Nitesh Kumar are arrayed as accused in the present case FIR.*
- 2. In view of the statement of petitioners as well as Investigating Officer, no accused has been declared proclaimed offender.*
- 3. In view of the statement of parties, the statements of parties appears to be bonafide. The statements have been suffered by the parties are genuine, voluntary and out of their free will and same are not the result of any pressure, undue influence or cocercion in any manner.*
- 4. In view of the statement of petitioners/accused, they are not involved in any other FIR.*
- 5. In view of the statements of Investigating Officer, except complainant/respondent No.2 Ashit Sharma, there is no other complainant/victim in the present FIR.*

Photostat copies of statements of complainant as well as accused/petitioners and Investigating Officer, are enclosed herewith.

The report is submitted for his Lordships perusal, please.

Yours faithfully

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Encl. As above.

Sd/-

(Daljit Kaur)
Chief Judicial Magistrate,
Bathinda”

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.

Learned counsel for the petitioners has 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, as per instructions, has stated that this fact is 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 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

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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.86 dated 19.04.2019, registered under Sections 465, 467, 468 and 471 of IPC, at Police Station Civil Lines Bathinda (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 13, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No