

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

(230)

CRM-M-40606-2021.
Date of Decision:-13.12.2021.

Jagtar Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Navinder Jit Singh Dandiwal, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Kuldeep Singh Saini, Advocate 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.59 dated 19.09.2018, registered under Sections 341, 323, 427, 506, 148 and 149 of IPC and Sections 25, 27, 54 and 59 of the Arms Act, 1959 (Arms Act deleted later on) at Police Station Samalsar, District Moga (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 17.09.2021 (Annexure P-2).

On 29.09.2021, 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.59 dated 19.09.2018 registered under
Sections 341/323/427/506/148/149 of the Indian Penal Code,*

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1860 and Sections 25/27/54/59 of the Arms Act, (Arms Act deleted later on) at Police Station Samalsar, District Moga (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 17.09.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise. He has further pointed out that petitioner No.10-Lakhveer Singh @ Lakhu is confined in District Jail, Faridkot and has, thus, requested this Court that his statement be recorded through Video Conferencing.

Notice of motion for 13.12.2021.

On asking of the Court, Mr. Amit Mehta, Senior Deputy Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Kuldeep Singh 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 concerned Illaqa Magistrate/trial Court is directed to get the statement of petitioner No.10-Lakhveer Singh @ Lakhu, who is confined in District Jail, Faridkot, recorded through Video Conferencing with respect to the compromise effected between the parties.

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The Illaqa Magistrate/trial Court is further 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 Sub Divisional Judicial Magistrate Baghapurana to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“6. Statement of Investigating Officer SI Kulwant Singh has been separately recorded. As per his statement, Deepu alias Deepak Lal, Gori alias Gurpiar Singh, Lakhu alias Lakhvir Singh, Money alias Manpreet Singh, Barma Singh alias Baramdev Singh, Boota Singh alias Balyodh Singh, Avneet Singh alias Amritpal Singh, Kanta Singh alias Kulwant Singh, Veer Singh, Baljit Singh, Dalip Singh, Dev Singh alias Sukhdev Singh and Jagtar Singh have been arrayed as accused in FIR. Accused Manpreet Singh alias Money had died on 26.08.2019

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and accused Avneet Singh alias Amritpal Singh was found innocent during the investigation. No other person was arrayed as accused during investigation in the present case. Buta Singh is the sole victim/complainant in this case.

The above statement of parties have been recorded in presence of their counsels. So, I am satisfied that the compromise effected between the parties is without any pressure and the same is genuine. Copies of statements of parties have been attached with this report.

Thanking you,

Yours faithfully

Sd/-

*(Ravneet Singh, PCS),
Sub Divisional Judicial Magistrate,
Baghapurana”*

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 offender in the present case. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondent Nos.2 has again reiterated that

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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.

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 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

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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.59 dated 19.09.2018, registered under Sections 341, 323, 427, 506, 148 and 149 of IPC and Sections 25, 27, 54 and 59 of the Arms Act, 1959 (Arms Act deleted later on) at Police Station Samalsar, District Moga (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