

CRM-M-41119-2021

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

(231)

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Date of Decision:-14.12.2021.

Sajan and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Harinder Pal Singh Ishar, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(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 04.06.2021, registered under Sections 307, 427, 506 and 34 of IPC and Section 25 of the Arms Act, at Police Station Makhu, District Ferozepur (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 24.08.2021 (Annexure P-2).

On 30.09.2021, this Court was pleased to pass the following order:-

*“This is a petition under Section 482 Cr.P.C. for quashing of
FIR No.59 dated 04.06.2021 under Sections 307, 427 506 and
34 IPC and Section 25 of the Arms Act, 1959, registered at
Police Station Makhu, District Ferozepur and all consequential*

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proceedings thereof on the basis of compromise dated 24.08.2021 (Annexure P-2).

Learned counsel for the petitioner has submitted that in the present case, the provision under Section 307 IPC has been illegally added, inasmuch as there is no injury on the vital part and in fact the injury has been stated to be on the right bicep of the complainant. It is further submitted that at the time of registration of the FIR, Section 307 IPC has been added without there being any medical opinion to the effect that the injury caused is dangerous to life.

Notice of motion.

On the asking of the Court, Mr. Saurav Khurana, learned DAG, Punjab, accepts notice on behalf of respondent-State of Punjab. He has stated that he would have to seek instructions with respect to the said two arguments.

Adjourned to 14.12.2021.

In the meanwhile, 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?

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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, Zira to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“It is also respectfully submitted that statement of ASI Gurwinderpal Singh, Investigating officer has been recorded. Para wise report as sought is as under:-

(1) There are total four accused arrayed in the present FIR named above.

(2) None of the above named accused is proclaimed offender in this case.

(3) This Court is of the considered opinion from above said statements of parties that the compromise between complainant Manjeet Singh on one side and accused (a) Sajjan (b) Sunil (c) Jatinder Singh alias Bhundi (d) Neelu on the other side has been arrived at and same is genuine, voluntarily and without any coercion or undue influence.

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(4) As per police record, there is another FIR No.259 dated 14.09.2017 under section 15 of NDPS Act, Police Station Sadar Ferozepur has been registered against accused Sajan son of Yusuf. Further, said accused Sajan is at present in custody in FIR No.130 dated 09.10.2021 under section 21 NDPS Act Police Station Navi Baradari, Jalandhar. Further FIR No.31 dated 20.04.2021 under section 21, 29 of NDPS Act, Police Station Mallanwala has been registered against accused Sunil son of Yusuf. No other FIR has been registered against remaining accused persons.

(5) There is only one complainant/injured/aggrieved in this case namely Manjeet Singh son of Jagga, above named.

(6) Challan in this case is not yet presented. Present case is under investigation.

As such the compliance report along with statements of the parties is hereby submitted please.

Thanking You.

Your Faithfully,

*(Parvinder Kaur, PCS),
UID No.PB-0324
Sub Divisional Judicial Magistrate,
Zira.”*

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

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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.

A perusal of the above report would further show that petitioner Nos.1 and 2 are involved in other cases. However, the same would not come in the way of this petition for quashing of the FIR, as the compromise in the present case has been found to be genuine, bona fide and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that none of the petitioners were 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 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

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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 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 04.06.2021, registered under Sections 307, 427, 506 and 34 of IPC and Section 25 of the Arms Act, at Police Station

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Makhu, District Ferozepur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 14, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No