

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-41735-2021

Date of decision : 01.12.2021

Harish Kumar Bhambri

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Amit Kumar Jain, Advocate
for the petitioner.

Mr.Sarabjit Singh, AAG, Punjab.

Mr.Munfaid Khan, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.219 dated 17.11.2016 registered under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station City Moga, District Moga, and all other consequential proceedings arising therefrom, on the basis of compromise dated 29.09.2021 (Annexure P-2).

On 05.10.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.219 dated 17.11.2016 registered under Sections 420/465/467/468/471/120- B of the Indian Penal Code, 1860 at Police Station City Moga, District Moga and all the subsequent proceedings arising therefrom on the basis of compromise dated 29.09.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted

that all the persons concerned are party to the compromise.

Notice of motion for 01.12.2021.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Munfaid Khan, 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 15 days.

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 to the said order, a report has been submitted by the Chief Judicial Magistrate, Moga. The relevant portion of the said report is reproduced hereinbelow:-

“3. In view of statement of complainant Rinku Kumar, accused Harish Kumar and ASI Sardara Singh, it is further submitted as under:

- 1. There are four accused in the above said FIR namely Karandeep Singh Lamba, Daljit Kaur, Harish Kumar and Ashok Kataria. Accused Karandeep Singh Lamba and Daljit Kaur have been declared innocent by the police authorities. Accused Ashok Kataria has been declared proclaimed offender in the above said FIR.*

- Accused Harish Kumar is on bail in the above said FIR.*
- 2. Accused Ashok Kataria is proclaimed offender in the above said FIR.*
- 3. Compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.*
- 4. Accused Harish Kumar is not involved in any other FIR.*
- 5. There is only one victim/complainant namely Rinku Kumar in the above said FIR.*
- Report submitted please. ”*

A perusal of the above said report would show that in the present case, co-accused Ashok Kataria is stated to be proclaimed offender and two other co-accused have been declared to be innocent by the police officials, and thus, it is the present petitioner, who is facing the proceedings in the present FIR. It is further observed that the compromise in the present case is genuine, voluntary, and without any coercion or undue influence.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court titled as ***Jayrajsinh Digvijaysinh Rana vs. State of Gujrat and another***, reported as ***2012(12) SCC 401***, to contend that where there is a partial compromise with some of the accused then also the proceedings against the said accused should be quashed as the same would not even remotely result in conviction of the said accused. Learned counsel for the petitioner has further submitted that there is no other FIR against the petitioner.

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

Learned counsel for the State has stated that he has no objection in case the FIR is quashed on the basis of compromise.

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 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, this petition is allowed and FIR No.219 dated 17.11.2016 registered under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station City Moga, District Moga, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 01, 2021

Davinder Kumar

Whether speaking / reasoned Yes/No

Whether reportable Yes/No