

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-1028-2021

Date of decision : 26.11.2021

Kuldeep Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kuldeep V.Singh Ahluwalia, Advocate
for the petitioners.

Mr.Sarabjit Singh, AAG, Punjab.

Mr.Diwan Singh Adlakha, 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.34 dated 02.05.2020 registered under Sections 341, 323, 186, 188, 149 IPC at Police Station Jaurkian, Mansa and all other consequential proceedings arising therefrom, on the basis of compromise dated 05.05.2020 (Annexure P-2).

On 11.01.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“ Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C., is for the quashing of FIR No.34 dated 02.05.2020, registered under Sections 341, 323, 186, 188 and 149 of

the Indian Penal Code, 1860, at Police Station Jaurkian, District Mansa, along with all consequential proceedings, on the basis of compromise, Annexure P/2 dated 05.05.2020.

Notice of motion.

Mr. Hittan Nehra, Addl. AG, Punjab, accepts notice on behalf of respondent No.1 and requests for time to file reply while Mr. Sanjay Nagpal, puts in appearance on behalf of respondent No.2 and states that he has no objection, if the aforementioned FIR and all consequential proceedings arising thereto are quashed in view of compromise Annexure P/2 dated 05.05.2020.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned trial court / Duty Magistrate concerned on 19.01.2021, for recording of their statements in view of compromise, Annexure P/2 dated 05.05.2020.

Report regarding genuineness of the compromise as also whether any other person(s) has / have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be submitted before this Court by the next date.

List on 28.01.2021.

Reply, if any, on behalf of respondent No.1, be filed in the meantime.. ”

In pursuance to the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Sardulgarh. The relevant portion of the said report is reproduced hereinbelow:-

“So, after going through the above statements of complainant and accused persons, this Court is satisfied that a written compromise, original of which is mark-A has been effected between the complainant and accused persons is bonafide, without any coercion or undue

influence and the same is genuine and voluntary. Further, as per the statement of ASI Gurmail Singh, I.O., in the present FIR, 15 persons have been arrayed as accused. None of the accused is proclaimed offender in this FIR. Challan has not yet been presented in the Court in the said FIR as the investigation is pending and no cross case is pending between the parties of said FIR. Hence, this report is hereby submitted to your honour, accordingly. ”

A perusal of the above said report would show that the compromise in the present case has been found to be bonafide, genuine and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and were not declared proclaimed person / offender in the present case.

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.

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 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 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.34 dated 02.05.2020 registered under Sections 341,

323, 186, 188, 149 IPC at Police Station Jaurkian, Mansa and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 26, 2021
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No