

CRM-M-46872-2021

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

(237)

CRM-M-46872-2021.
Date of Decision:-21.12.2021.

Paras @ Paras Masih and another

.....Petitioners

Versus

The State of Punjab and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. L.S. Lakhanpal, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Amritpal S. Sohal, Advocate for
Mr. A.S. Jawanda, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.233 dated 06.09.2019, registered under Sections 452, 427, 148, 149, 506 of IPC at Police Station Sadar Amritsar, District Amritsar (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise deed/affidavit (Annexure P-2).

On 09.11.2021, 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.233 dated 06.09.2019 registered under Sections 452, 427, 148, 149 and 506 of the Indian Penal Code, 1860 at Police

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Station Sadar Amritsar, District Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 08.10.2020 (Annexure P-2).

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

Notice of motion for 21.12.2021.

On asking of the Court, Mr. N.K. Banka, DAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Amandeep Jawandha, 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 of the said order, the report has been submitted
by the Additional Chief Judicial Magistrate, Amritsar to the Registrar

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

“That following is the requisite information as directed:-

- 1. That as per the FIR and statement of IO ASI Satnam Singh, seven persons namely Shashipam, Arjan @ Mashi, Prince @ Haddi, Aman Bhayia, Sam, Paras @ Paras Masih, Waris @ Waris Masih, are arrayed as accused.*
- 2. That as per statement of IO ASI Satnam Singh and as per Court Record, accused Paras @ Paras Masih and Waris @ Waris Masih were declared Proclaimed Offenders vide order dated 26.07.2021 passed by Sh. Ravinderjit Singh Bajwa, the then Learned ACJM, Amritsar. Both the accused joined the investigation on 11.09.2021 as per the interim bail order dated 22.09.2021 passed by the Court of Ms. Harpreet Kaur Randhawa, Learned Sessions Judge, Amritsar and their interim bail was made absolute vide order dated 22.11.2021 by the Court of Ms. Harpreet Kaur Randhawa, Learned Sessions Judge, Amritsar.*
- 3. That the compromise effected between complainant and accused persons namely Paras @ Paras Masih and Waris @ Waris Masih, is genuine, voluntary and out of free will.*
- 4. That as per statement of IO ASI Satnam Singh, there is no other FIR registered against any of the accused in Police Station Sadar, Amritsar.*
- 5. That as per statement of investigating officer ASI Satnam*

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Singh, Gurdharshan Singh son of Dessa Singh is the only victim/complainant in the present FIR.

Submitted please.

Sd/-

*(Jaapinder Singh)
Additional Chief Judicial Magistrate
Amritsar”*

A perusal of the said report would show that statements of the petitioners and complainant has 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. As per the said report, it has been observed that none of the persons have been declared as proclaimed offenders in the present case and no other case is pending against the petitioners.

As per the above-reproduced report, the compromise which has been effected between the parties is genuine and out of free will and without undue pressure. In the present case, there were as many as 07 accused, however, the compromise has been entered into with the two accused who have filed the present petition and, hence, the compromise is a partial compromise.

Learned counsel for the petitioners and respondent No.2 have relied upon the judgment of the Hon’ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012 (12) SCC 401**, to contend that where there is a partial compromise with some of

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the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh** and others in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 is of the opinion 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 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.233 dated 06.09.2019, registered under Sections 452, 427, 148, 149 and 506 of IPC at Police Station Sadar Amritsar, District

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

(VIKAS BAHL)
JUDGE

December 21, 2021.
sandeep
Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No