

CRM-M-49547-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(251)

CRM-M-49547-2021.

Date of Decision:-21.12.2021.

Gurvinder Singh @ Raju

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Suneet Pal Singh Aulakh, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Gurmandeep Brar, 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.0124 dated 01.11.2018, registered under Sections 323 and 325 of IPC (Section 201 IPC added lateron) at Police Station Amloh, District Fatehgarh Sahib (Annexure P-1) and all the consequential proceedings arising therefrom, on the basis of compromise dated 22.11.2021 (Annexure P-2).

On 26.11.2021, 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.124 dated 01.11.2018 registered
under Sections 323 and 325 of the Indian Penal Code, 1860*

(Section 201 of IPC has been added later on) at Police Station Amloh, District Fatehgarh Sahib (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise deed dated 22.11.2021 (Annexure P-2).

Learned counsel for the petitioner 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. Sarabjit Singh Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Veerdevinder Singh Sekhon, Advocate appears on behalf of respondent No.2/complainant.

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 Judicial Magistrate Ist Class, Amloh to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“5. It is further humbly submitted that:-

- (i) As per the statement of complainant Jaswinder Singh and IO, ASI Jaswinder Singh no.309/FGS no other accused except accused Gurwinder Singh @ Raju has been arrayed as accused in the present FIR.*
- (ii) As per the statement of IO ASI Jaswinder Singh no.309/FGS, no accused has been declared proclaimed offender in the present case.*
- (iii) From the statements of the parties, it seems that the compromise between the parties is genuine, voluntary & without any coercion or undue influence.*
- (iv) As per the statement of IO ASI Jaswinder Singh no.309/FGS, accused Gurwinder Singh @ Raju is not involved in any other FIR.*
- (v) As per the statements of IO ASI Jaswinder Singh no.309/FGS and complainant, in the present case there is only one victim/complainant i.e. Jaswinder Singh.*

6. The complainant Jaswinder Singh and accused Gurwinder Singh @ Raju have no objection if the above said case FIR and the consequential proceedings are quashed

against the accused Gurwinder Singh @ Raju in view of the compromise entered into between the parties.

7. *This is for your kind information, please.*

Thanking you.

Yours faithfully

Sd/-

*Gurinder Singh, PCS
Judicial Magistrate, Ist Class
Amloh, UID-PB-0487”*

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. 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 petitioner.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions, has stated that these facts are 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

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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 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 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

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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.0124 dated 01.11.2018, registered under Sections 323 and 325 of IPC (Section 201 of IPC added later on) at Police Station Amloh, District Fatehgarh Sahib (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 21, 2021.

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No