

CRM-M-51348-2021

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

(253/A)

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Date of Decision:-22.12.2021.

Narender Kaur Kalkut and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Arora, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Parminder Singh Kanwar, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of DDR No.051 dated 16.11.2018, registered under Sections 323, 324 and 34 of IPC at Police Station Tanda, District Hoshiarpur (Annexure P-1) arising out of FIR No.269 dated 01.11.2018, registered under Sections 355, 452, 323 and 34 of IPC at Police Station Tanda, District Hoshiarpur (Annexure P-2) and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-4).

On 10.12.2021, this Court was pleased to pass the following order:-

*“This is a petition filed under Section 482 of Cr.P.C. for
quashing of DDR No.51 dated 16.11.2018 registered Sections*

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323, 324 and 34 of the Indian Penal Code, 1860 at Police Station Tanda, District Hoshiarpur (Annexure P-1) arising out of FIR No.269 dated 01.11.2018 registered at Police Station Tanda, District Hoshiarpur (Annexure P-2) and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-4).

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

Notice of motion for 22.12.2021.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. P.S. Kanwar, 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 seven 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?*

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

“All the parties in their respective statements have stated on oath that the matter has been mutually compromised between the parties and now no grudge or enmity remains between them. I have inquired the factum of compromise from the parties present in the Court who endorsed the fact of effecting of compromise between them with their free volition. From the statements of the parties as well as the other circumstances, it seems that the compromise Ex.PX has been effected between the parties with their free consent and without any inducement or threat of any person.

As per the record lying with this court, Hardeep Singh @ Deepa is arrayed as only accused in FIR no.269 dated 01.11.2018 while in cross version case bearing DDR no.51 dated 16.11.2018, Paramjit Singh, Narinder Kaur and Gurmeet Singh are arrayed as accused. The accused Paramjit Singh is already expired on 14.05.2020 and photocopy of his death certificate is enclosed herewith. No accused is declared proclaimed person in FIR no.269 or its cross version. As per the report of the concerned Ahlmad, the accused arrayed in the

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main FIR as well as cross version are not accused in any other case pending before this court. Further, as per the statement of Investigating Officer dated 15.12.2021, Late Paramjit Singh complainant and Narinder Kaur injured are victims in the main FIR bearing no.269 dated 01.11.2018 while Hardeep Singh complainant cum injured is the only victim in the cross version case bearing DDR no.51 dated 16.11.2018.

The requisite report along with original statement of parties are sent to the Hon'ble High Court as desired.

Submitted please.

Yours faithfully

Sd/-

*(Varinder Kumar) PCS,
Judicial Magistrate, Ist Class,
Dasuya (UID No.PB0402) ”*

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 petitioners.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed

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offender in the present case. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondent No.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 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

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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 DDR No.051 dated 16.11.2018, registered under Sections 323, 324 and 34 of IPC at Police Station Tanda, District Hoshiarpur (Annexure P-1) arising out of FIR No.269 dated 01.11.2018, registered under Sections 355, 452, 323 and 34 of IPC at Police Station Tanda, District Hoshiarpur (Annexure P-2) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No