

CRM-M-51158-2021

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

(245)

CRM-M-51158-2021.
Date of Decision:-22.12.2021.

Sukhmander Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. K.B.S. Mann, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Amit Dhawan, Advocate for
Mr. Impinder Singh Dhaliwal, 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.28 dated 19.02.2017, registered under Sections 323/324/34 of IPC at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-2) in FIR No.19 dated 19.02.2017, registered under Sections 324/34 of IPC at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-2) and all the consequential proceedings arising therefrom, on the basis of compromise deed and affidavit dated 29.10.2021 (Annexures P-3 and P-4 respectively).

On 07.12.2021, this Court was pleased to pass the following order:-

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“This is a petition filed under Section 482 of Cr.P.C. for quashing of DDR No.28 dated 19.02.2017 registered under Sections 323/324/34 of the Indian Penal Code, 1860 at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-2) in FIR No.19 dated 19.02.2017 registered under Sections 324/34 of the Indian Penal Code, 1860 at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner 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. Sukhbeer Singh, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Impinder Singh Dhaliwal, 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 10 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?*

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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 First Class, Malout, District Sri Muktsar Sahib to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“4. In order to prove their identity, both the parties have placed on file their identity proof. Both parties are identified by their respective counsels. This court is satisfied that aforesaid statements made by the parties are voluntarily and their compromise has been arrived at genuine, voluntarily, threat, without any coercion or undue influence from either side. It is further mentioned that ASI Manjeet Singh (Investigating Officer of the present case) suffered a statement that as per record only one complainant/victim Jagdev Singh in the above said DDR and only one accused Sukhmander Singh arrayed as accused in the above said DDR. No accused person has been declared proclaimed offender in the present case. No other criminal case is pending against the above said accused except the above said DDR.

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Report is hereby forwarded to your good self along with copies of statements of complainant, accused as well as their identification proof, as ordered by your good self.

Submitted please.

Encl:

- 1. Statement of parties.*
- 2. Identity Proofs.*

Yours faithfully

Sd/-

*(Kanwal Jit Singh)
Judicial Magistrate First Class,
Malout, District Sri Muktsar Sahib.
UID No.PB-0493”*

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 petitioner has submitted that there is no other FIR against the petitioners 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

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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 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

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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.28 dated 19.02.2017, registered under Sections 323/324/34 of IPC at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-2) in FIR No.19 dated 19.02.2017, registered under Sections 324/34 of IPC at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No