

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

(225)

CRM-M-43861-2019 (O&M).
Date of Decision:-13.12.2021.

Suresh Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Manju Goyal, Advocate for the petitioner.
Mr. Sarabjit S. Cheema, AAG, Punjab.
Ms. Aparna Singhal, Advocate for respondent No.2.
(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.88 dated 22.07.2018 registered under Section 420 of the Indian Penal Code, 1860 at Police Station City Rampura, District Bathinda and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

On 23.11.2021, this Court was pleased to pass the following order:-

“CRM-31993-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 17.01.2022 to an early date.

Learned counsel for the applicant/petitioner has submitted that in the present case, the matter has been compromised and thus, prays for preponement of date of hearing in the main case.

Notice in the application.

On advance notice, Mr. C.L. Pawar, Sr. DAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of

Punjab and Ms Aparna Singhal, Advocate accepts notice on behalf of nonapplicant/ respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 17.01.2022 to today itself.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 17.01.2022 to today and is taken on Board today itself.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.88 dated 22.07.2018 registered under Section 420 of the Indian Penal Code, 1860 at Police Station City Rampura, District Bathinda and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for respondent No.2 has submitted that the complainant has now come to India and can get his statement recorded in person.

Adjourned to 13.12.2021.

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 Sub Divisional Judicial Magistrate, Phul to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“The point wise report is as under:-

- 1. As per the statement of ASI Darshan Singh No.319/BTI, P.S. City Rampura there is only one accused in the present case. As per the statement of complainant Rajinder Singh, the present FIR was lodged by him against accused Suresh Kumar only.*
- 2. As per the statement of ASI Darshan Singh No.319/BTI, P.S. City Rampura the accused has not been declared proclaimed offender.*
- 3. The compromise effected between the parties appears to be genuine and valid and without any coercion or undue influence. Statements of parties were duly recorded before the undersigned and they were duly identified by their respective counsel.*
- 4. As per the statement of ASI Darshan Singh No.319/BTI, P.S. City Rampura, the accused person is not involved in any other FIR.*
- 5. As per the statement of ASI Darshan Singh No.319/BTI, P.S. City Rampura, there is only one complainant/victim namely Rajinder Singh in the present case.*

Accordingly, the compliance report is sent herewith for your kind perusal please alongwith the statements of complainant Rajinder Singh and accused person Suresh Kumar and ASI Darshan Singh.

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*Photocopies of Aadhar Cards of complainant and accused person as
Mark-A and Mark-B.*

Thanking you.

Yours faithfully

Sd/-

*(Meenakshi Gupta), PCS,
Sub Divisional Judicial Magistrate
Phul. (UID no.PB0369)”*

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.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he has not been declared proclaimed offender in the present case. Learned counsel for the State, as per instructions, has stated that this fact is 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 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***

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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 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.88 dated 22.07.2018 registered under Section 420 of the Indian Penal Code, 1860 at Police Station City Rampura, District Bathinda and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

Since the main case has been decided, miscellaneous application, if

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any, is also disposed of as having been rendered infructuous.

(VIKAS BAHL)
JUDGE

December 13, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No