

114

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

CRM-40620-2021 in/and
CRM-M-48310-2019 (O&M)
Date of decision : 02.12.2021

Gurmail Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rahil Mahajan, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Sartaj Singh Gill, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-40620-2021

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 24.05.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab,

appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Sartaj Singh Gill, Advocate appears on behalf of non-applicant/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 24.05.2022 to today itself for final disposal.

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 24.05.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.41 dated 14.11.2018 registered under Sections 323, 364, 356, 506, 341, 148, 149 of the Indian Penal Code, 1860 at Police Station Block Majari, District SAS Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of settlement/compromise dated 16.03.2019 (Annexure P-2).

On 14.11.2019, a Coordinate Bench of this Court was pleased to pass the following order:-

“Contends that matter has been compromised between the parties.

Notice of motion.

On the asking of the Court, Mr. V.G. Jauhar, Senior DAG Punjab accepts notice on behalf of respondent No.1-State.

Mr. Sartaj Singh Gill, Advocate, who is present in the Court, appears and files Power of Attorney on behalf of respondent No.2 and the same is taken on record. He acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned counsel for the respondents during the course of the day.

Petitioners shall file their affidavit(s) before learned trial Court that there is no other criminal case pending against them and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

In view of above, let the parties be appeared before the Court of learned Illaqa Magistrate/trial Court on 09.12.2019 to record their statements with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court, before the next date of hearing, containing the following information:-

- (i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?*
- (ii) Whether the compromise effected between the parties is genuine and valid?*
- (iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?*
- (iv) Whether any other case is pending against either*

of the parties or not, if yes, the details thereof?

(v) *Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*

(vi) *Whether any of the petitioner(s) is/are previous convict or not?*

List before this Court on 14.01.2020, for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

A copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Kharar. The relevant portion of the said report is reproduced hereinbelow:-

“However, this Court is satisfied after examining the parties personally that compromise is genuine and correct and the parties are not under any pressure, threat, undue influence etc. and are making compromise out of their free will. Further, as per the statement of I.O. ASI Paramjit Singh in the present FIR, all the three accused namely Gurmail Singh, Pargat Singh and Surinder Singh and complainant/injured Harry Midha are party in the present compromise and except the present case, no other case is pending against either of the parties. He further stated that no person involved in the present case has been declared a proclaimed offender and no petitioner/accused has been convicted in any of the cases. In this regard, statements of the parties are also recorded

by this Court and the same are sent herewith for your kind perusal.

Hence, the report is submitted.

Thanking you,

Yours faithfully,

Sd/- (Garima Gupta)

*Judicial Magistrate First Class,
(Duty), Kharar, UID No.PB-0535”*

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners has submitted that the petitioners were not 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 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 two parties.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the 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 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 and others Vs State of Punjab**”, reported as **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**”, reported as **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, the petition is allowed and FIR No.41 dated 14.11.2018 registered under Sections 323, 364, 356, 506, 341, 148, 149 of the Indian Penal Code, 1860 at Police Station Block Majari, District SAS Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of settlement/compromise dated 16.03.2019 (Annexure P-2), are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

02.12.2021

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**