

126

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

CRM-M-54396-2019

Date of decision : 23.09.2021

Hardeep Grewal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. H.S. Badali, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Mohit Verma, Advocate for

Mr. Saurabh Kapoor, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.238 dated 04.12.2018 registered under Sections 279, 338 of the Indian Penal Code, 1860 at Police Station Mataur, District SAS Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2).

On 04.02.2020, the Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.238 dated 04.12.2018, under Sections 279 and 338 of IPC, registered at Police Station

Mataur, District SAS Nagar (Annexure P-1).

On 19.12.2019 this Court had issued notice of motion to the respondents for today. It was also directed that on the next date replies be filed on or before the next date of hearing with an advance copy to the learned counsel for the petitioner. However, no reply has been filed by any of the respondents.

Considering the averments which have been made in the petition and the arguments advanced by learned counsel for the parties, the concerned parties are directed to appear before the trial Court/Illaq Magistrate on 19.2.2020 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 in FIR.*
- 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 case 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.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.

Adjourned to 18.3.2020.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class, SAS Nagar (Mohali). The relevant portion of the said report is reproduced hereinbelow:-

“Respected Sir,

It is respectfully, submitted that in view of the

directions of the Hon'ble High Court vide orders 04.02.2020 passed by Hon'ble High Court, statement of parties as well as Investigating Officer were recorded. Both the parties were present on 19.02.2020. The complainant has given no objection in his statement if the FIR is quashed against the accused. The report of the undersigned is as under:-

- i. As per record one person arrayed as accused in FIR.*
- ii. As per record available with the undersigned no accused has been declared 'Proclaimed Offender.*
- iii. The compromise effected between the parties is genuine, voluntarily and without any pressure or undue influence.*
- iv. As per statement of the IO accused person is not involved in any other case.*
- v. As per the statement of the Investigating Officer, there is only one victim/complainant in the FIR.*

Copies of the statement of parties as well as Investigating Officer are enclosed herewith for your kind perusal please."

A perusal of the said report would show that the compromise effected between the parties is genuine, voluntarily and without any pressure or undue influence.

Learned counsel for the petitioner has submitted that the petitioner was 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. He has further submitted that respondent No.2 has no objection in case the FIR in question and all the subsequent proceedings arising therefrom are quashed qua the petitioner.

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 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”

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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.238 dated 04.12.2018 registered under Sections 279, 338 of the Indian Penal Code, 1860 at Police Station Mataur, District SAS Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise (Annexure P-2), are ordered to be quashed, qua the petitioner.

23.09.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No