

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(233-1)

CRM-M-160-2020

Date of decision: - 02.09.2022

Gurbinder Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Dinesh Kumar, Advocate, for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. M.K. Singla, Advocate, for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of cross-case dated 19.07.2017 registered by respondent no.2 in FIR No.95 dated 19.07.2017 registered under Sections 341, 323, 34 IPC (Section 325 IPC added later on) at Police Station Amargarh, District Sangrur and all other consequential proceedings arising therefrom on the basis of compromise.

On 17.08.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of cross case dated 19.07.2017 registered by respondent no.2 in FIR No.95 dated 19.07.2017 registered under Sections 341, 323, 34 IPC (Section 325 IPC added later on) at Police Station Amargarh, District Sangrur and all other consequential 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.

Learned counsel for respondent no.2 admits the factum of compromise.

The parties are directed to appear before the Illaqa Magistrate 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?*
- 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.*

Adjourned to 02.09.2022.

(VIKAS BAHL)
JUDGE

August 17, 2022.”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Malerkotla to the Registrar of this Court. The relevant part of the report is reproduced hereinbelow:-

“As per the statement of IO, there are two accused arrayed in the present DDR (being the cross case of FIR no. 95 dated 19.07.2017 u/s 341, 323, 34) namely Gurwinder Singh and Kulwinder Kaur. Accused Gurwinder Singh only has filed quashing petition in the Hon'ble High Court.

- 2. As per the statement of IO, no any accused is declared as Proclaimed Offender.*
- 3. As per the statement of complainant/victims and accused Gurwinder Singh, they have entered into compromise with their own free will and without any pressure or coercion or undue influence.*

The said compromise seems to be genuine, voluntary and out of free will of the parties.

4. *As per the statement of IO, accused are not involved in any other FIR.*

5. *As per the statement of IO, there is one complainant i.e. Mukhtiar Singh and 2 victims i.e. Gurmail Singh and Shakti Singh*

Submitted Please,

Dated: 24.08.2022

*(Harshbir Sandhu), PCS,
Judicial Magistrate Ist Class,
Malerkotla (UID: PB0470)"*

A perusal of the said report would show that there is one complainant and two victims and the statements of all the complainant/victims have been recorded and the said statements have been annexed along with the said report. As per the report, two accused persons in the present case, whereas, the present petition has been filed by one petitioner. It is also stated that the compromise entered between the said parties is genuine, voluntary and without any pressure.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioners/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **'Dalip Mandal and another Vs. State of U.T., Chandigarh and others'**,

in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 petitioner and the complainant/victims. 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**”, 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 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 the cross-case dated 19.07.2017 registered by respondent No.2 in FIR No.95 dated 19.07.2017 registered under Sections 341, 323, 34 IPC (Section 325 IPC added later on) at Police Station Amargarh, District Sangrur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

September 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No