

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

248

CRM-M-1156-2020
Decided on : 27.05.2022

Sudama and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. S. K. Raghuvanshi, Advocate for
Mr. Vijay Lath, Advocate
for the petitioners.

Mr. Sarabjit S. Cheema, A.A.G., Punjab.

Mr. Lovish Rattan, Advocate for
Mr. Surinder Sharma, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 67 dated 17.06.2015 under Sections 380, 381 and 411 of the
Indian Penal Code, 1860 registered at Police Station Phase-11, District
SAS Nagar (Mohali)(Annexure P-1) and all subsequent proceedings
arising therefrom on the basis of the compromise.

On 13.01.2020, a Coordinate Bench of this Court was
pleased to pass the following order:

*“Prayer made in this petition is for
quashing of FIR on the basis of compromise.*

Notice of motion for 06.03.2020.

Mr. Surinder Sharma, Advocate appears on behalf of respondent No. 2.

In the meanwhile, parties are directed to appear before the trial Court/Illaq Magistrate on 28.01.2020 and the trial Court/Illaq Magistrate, after recording their statements, shall submit its report with regard to genuineness of the compromise viz-a-viz. number of accused persons involved in this case and whether any of the accused has been declared proclaimed offender or not, on or before the adjourned date.

*Sd/-
13.01.2020 (RAJ MOHAN SINGH)
JUDGE”*

In pursuance of the said order, a report has been submitted by the Additional Chief Judicial Magistrate, SAS Nagar, Mohali to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Respected Sir,

I have the honour to submit with respect to the subject cited above that vide order dated 13.01.2020 passed by the Hon'ble High Court in above noted case, the parties were directed to appear before this Court on 28.01.2020 for recording their statements and the undersigned was directed to submit her report with regard to genuineness of the compromise viz-a-viz, number of accused persons involved in this case and whether any of the accused has been declared proclaimed offender or not, on or before the adjourned date.

It is submitted that the accused Sudama & Ayodhya Paswan and complainant Avtar Singh had

appeared on 28.01.2020 and made a statement that the matter has been compromised between them. (Copies of statements attached herewith)

The report is submitted as under:

- 1. As per statement of parties, two persons are arrayed as accused in the present FIR*
- 2. As per statement of parties, no accused is proclaimed offender in the present FIR.*

Submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioners 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.

As per the FIR, there are three accused in the present case but the present petition has been filed by two accused i.e. the present petitioners and the compromise has been effected with them and a prayer has been made by counsel for the petitioners as well as the counsel for respondent No. 2 that the FIR be quashed qua the present petitioners.

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

petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners 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 with the petitioners and the said compromise is in the interest of all the persons and would help in bring 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 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 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, the petition is allowed and FIR No. 67 dated 17.06.2015 under Sections 380, 381 and 411 of the Indian Penal Code, 1860 registered at Police Station Phase-11, District SAS Nagar (Mohali) (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioners.

(VIKAS BAHL)
JUDGE

May 27th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No