

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM-M-1815-2022
Decided on : 24.02.2022

Balwinder Singh and others

. . . Petitioners

Versus

Sate of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Davinder Singh Khurana, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vipul Babuta, Advocate
for respondent No. 2-complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 95 dated 19.11.2020 under Sections 324, 323 and 34 of the Indian Penal Code, 1860 (Section 326 IPC added later on) and registered at Police Station Amir Khas, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 01.02.2022, the following order was passed:

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.95 dated 19.11.2020 (Annexure P-1) registered under Sections 324, 323, 34 IPC (Section 326 IPC added later on) at Police Station Amir Khas, District Fazilka

and all other consequential proceedings arising therefrom on the basis of compromise deed dated 28.12.2021 (Annexure P2).

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion.

On the asking of the Court, Mr. V.G.Jauhar, Sr.DAG, Punjab, accepts notice on behalf of respondent no.1. Mr.Vipul Babuta, Advocate, accepts notice on behalf of respondent no.2-complainant.

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.*

Adjourned to 24.02.2022.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Jalalabad (West) to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“The statements of complainant Manpreet Singh and accused persons Balwinder Singh, Nirmal Singh and Babbu

alias Navdeep Singh as well as the statement of ASI Sukhdev Singh the report of the undersigned is as under:

i. That in the present FIR total three arrayed as accused as per the state of Investigating Officer.

ii. That as per the statement of Investigating Officer, none of the accused has been declared proclaimed offender.

iii. That in the present FIR No. 95 complainant is Manpreet Singh and accused are Balwinder Singh, Nirmal Singh and Babbu alias Navdeep Singh and they appeared and have made their statements. before this court on 07.02.2022 with their free will, voluntarily, without any threat or undue influence. The compromise effected between the parties in the present case is genuine, voluntarily and out of free will.

iv. That the accused persons in the present case, are not involved in any other FIR.

V. That in the present FIR, Manpreet Singh is only one victim/complainant. The present case is pending at the stage of investigation as per statement of Investigating Officer recorded before this Court.

Original statements of complainant Annexure 'A', Adhar Card Mark 'A' and accused persons Annexure 'B', Adhar Cards Mark 'B', Mark 'C', Mark 'D' as well as statement of ASI Sukhdev Singh Investigating Officer Annexure 'C' are being sent herewith, as desired by the Hon'ble High Court.

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 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 none of the petitioners were declared proclaimed offender in the present case and is not involved in any other FIR.

Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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. 95 dated 19.11.2020 under Sections 324, 323 and 34 of the Indian Penal Code, 1860 (Section 326 IPC added later on) and registered at Police Station Amir Khas, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

February 24th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No