

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268

CRM-M-1331-2022
Decided on : 19.05.2022

Lakhvir Singh Lakha

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr.Kuldeep Singh Saini, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. N. S. Dhandiwal, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 122 dated 14.09.2021 under Section 379 of the Indian Penal
Code, 1860 (Section 294 IPC added later on) registered at Police Station
Sadar Ropar, District Ropar (Annexure P-1) and all subsequent
proceedings arising therefrom on the basis of the compromise.

On 28.04.2022, this Court was pleased to pass the
following order:

“CRM-4833-2022

Application is allowed, as prayed for.

*Compromise (Annexure P-4) and Amended memo
of parties are taken on record, subject to all just
exceptions.*

Main case

Learned counsel for the petitioner has stated that in the present case, compromise has been effected between the parties and inadvertently, Azad Khan was left out to be impleaded as a party respondent (although he is victim as per the allegations levelled in the FIR) and thus, made an oral request that Azad Khan son of Shafat Khan, resident of Village Laddal, Tehsil and District Ropar may kindly be impleaded as party respondent No.3.

In view of the abovesaid oral request made by learned counsel for the petitioner, Azad Khan son of Shafat Khan, resident of Village Laddal, Tehsil and District Ropar is ordered to be impleaded as party respondent No.2. Registry is directed to place the amended memo of parties which has already been taken on record vide application bearing No.CRM-4833- 2022, at the appropriate place in the paper book.

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.122 dated 14.09.2021 registered under Section 379 of the Indian Penal Code, 1860 (Section 294 of IPC has been added later on) at Police Station Sadar Ropar, District Ropar and all the subsequent 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. Notice of motion for 19.05.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Arjinder Singh Sidhu, Advocate for Mr. N.S. Dhandiwal, Advocate appears on behalf of respondent Nos.2 and 3.

The parties are directed to appear before the Illaqa Magistrate/trial Court 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.”*

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

“4. Further the statement of IO ASI Balbir Singh, No.352/R, PS Sadar Rupnagar has also been recorded who has stated that no accused has been declared as 'Proclaimed Offender' in the present case and total six accused have been arrayed and their names are Lakhbir Singh @ Lakha, Manpreet Singh son of Jagdish Singh, r/o Village Behrampur, Gurmail Singh son of Kartar Singh, r/o Village Behrampur, Simranjit Singh son of Puran Singh, r/o Village Hussainpura, Jeet son of Mohan Lal, r/o Village Kotla Nihang, PS City Rupnagar and Gurtej Singh son of Jaspal Singh, r/o Guru Nagar, PS City Rupnagar. He has also suffered in his statement that as per their record, total 05 FIRs have been

registered against Lakhbir Singh @ Lakha and the details are:

- i) FIR No.139 dated 04.11.2012, u/s 379, 188 IPC, 21(1) 4(1) MM Act, PS Sadar Rupnagar convicted on 12.09.2014,*
- ii) FIR No.111 dated 13.11.2013, u/s 452, 427, 506, 34 IPC, PS Sadar Rupnagar acquitted on 02.02.2015,*
- iii) FIR No.54 dated 27.05.2016, u/s 379, 411 IPC, PS Sadar Rupnagar acquitted on 18.02.2020,*
- iv) FIR No.114 dated 08.07.2017, u/s 3, 4, 5 IPC Immoral Traffic Act, PS Sadar Rupnagar, (UCR)*
- v) FIR No.67 dated 23.04.2017, u/s 341, 324, 506, 148, 149 IPC, PS City Rupnagar acquitted on 19.08.2021.*

5. The accused Lakhbir Singh @ Lakha has been identified in the Court by counsel Sh. Mohinder Pal Singh Advocate and complainant Daler Singh and Azad Khan have been identified by ASI Balbir Singh.

6. From the statements, recorded above, it appears that compromise is genuine and has been effected between the parties willfully and without any pressure or influence from any quarter. Report is submitted as desired, please.”

A perusal of the said report would show that it has been stated that the statements of the complainants as well as the petitioner 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 complainants have been made voluntarily without any fear, coercion or pressure.

As per the above-reproduced report, there are 6 accused in the present case but the compromise has been effected with one accused only i.e. the present petitioner and a prayer has been made by counsel for the petitioner as well as the counsel for respondent Nos. 2 and 3 that the FIR be quashed qua the present petitioner.

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 Nos. 2 and 3 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 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. 122 dated 14.09.2021 under Section 379 of the Indian Penal Code, 1860 (Section 294 IPC added later on) registered at Police Station Sadar Ropar, District Ropar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioner.

(VIKAS BAHL)
JUDGE

May 19th, 2022
Mehak

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