

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

253

CRM-M-5012-2022
Decided on : 21.04.2022

Mandeep Singh

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Krishan Sehajpal, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Shivender Sharma, 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. 165 dated 21.09.2019 under Sections 420, 506, 120-B of the Indian Penal Code, 1860 and Section 24 of the Immigration Act registered at Police Station Koom Kalan, District Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 08.03.2022; this Court was pleased to pass the following order:

“Learned counsel for the petitioner has submitted that one more opportunity be granted to the parties to appear before the trial Court and record their statements.

The parties are again directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of three weeks.

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 21.04.2022.

The statements of the parties be recorded subject to cost of Rs. 5,000/- to be deposited by the petitioner with the High Court Lawyers' Welfare Fund. The said amount would be deposited prior to giving the statements of the parties and the trial Court would only permit them to record their statements after the petitioner shows the receipt of the same.

In case, the cost of Rs.5,000/- is not deposited by the petitioner with the High Court Lawyers' Welfare Fund, then the present petition would be deemed to have been dismissed. ”

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

“Thereafter accused Mandeep Singh son of Jaswant Singh got recorded his statement that compromise has been effected with complainant Vipin Passi as per compromise deed Ex.C1 and he also deposited amount of Rs.5,000/- as per the directions of Hon'ble High Court and copy of receipt is Mark A.

xxx—xxx--xxx

The pointwise information as sought by Hon'ble Court of Punjab and Haryana vide order dated 8.3.2022 passed is as under:

- i) So far as question of number of persons arrayed as accused in FIR is in concern, on the perusal of papers and as per statement of IO it is observed that FIR has been registered against three persons i.e. Kulwinder Singh, Mandeep Singh and Sadhvi Rajni. Out of which Sadhvi Rajni has been declared as innocent during inquiry/investigation and accused Kulwinder Singh and Mandeep Singh have been declared as Proclaimed Offenders vide order dated 7.3.2020. However accused Mandeep Singh has been ordered to be released on bail on 8.4.2021 in view of order passed by the Court of Sh. KK Jain Ld. Additional Sessions Judge Ludhiana dated 2.4.2021.*
- ii) It is most humbly submitted that as per statement of IO, accused Kulwinder Singh and Mandeep Singh have been declared as Proclaimed Offenders vide order dated 7.3.2020. However accused Mandeep Singh has been ordered to be released on bail on 8.4.2021 in view of order passed by the Court of Sh. KK Jain Ld. Additional Sessions Judge Ludhiana dated 2.4.2021.*
- iii) In view of the abovesaid statements it appears that the compromise so arrived between the*

parties is genuine, without any coercion voluntarily and out of free will.

- iv) It is further humbly submitted that as per statement of complainant Vipam Passi, two similar criminal cases are pending against accused Mandeep Singh one at Dera Bassi and other at Mohali Court and accused Mandeep Singh had also been declared as Proclaimed Offender in complaint filed by son of complainant Rohit Passi against accused Mandeep Singh U/s 138 Negotiable Instrument Act and compromise has also been effected in those cases with accused Mandeep Singh. On the other hand, as per statement of accused Mandeep Singh there are four criminal cases are pending against him at Mohali Court and had also been declared as Proclaimed Offender in complaint U/s 138 NI Act filed by son of complainant Rohit Passi against him and compromise has also been effected in that complaint with the son of complainant Rohit Passi. Accused Mandeep Singh has also furnished an affidavit regarding pendency of said four criminal cases. However as per statement of ASI Randhir Singh Investigating Officer, total five cases U/s 420 IPC are pending against accused Mandeep Singh. Details of which have been mentioned above.*
- v) It is further humbly submitted that as directed statement of Investing Officer namely ASI Randhir Singh no.440/LDH has been recorded to the effect that there is only one complainant/victim namely Vipam Passi in the present FIR. Accordingly, report is being*

submitted please. This is for your kind information.”

A perusal of the said report would show that it has been stated that the statements of the complainant 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 complainant has been made voluntarily without any fear, coercion or pressure. Merely the fact that the petitioner is involved in other cases also would not come in way of quashing of the present FIR on the basis of compromise.

Although, in the present petition, the petitioner has made even Rohit Passi, who is the son of Vipin Passi (respondent No. 2), as respondent but as per the above said report, there is only complainant/victim Vipin Passi in the present case.

Learned counsel for the petitioner as well as respondent Nos. 2 and 3 have jointly submitted that in fact, there is only one complainant/victim inasmuch as respondent No. 2 who had paid money to the petitioner.

Learned counsel for respondent Nos. 2 and 3 has submitted that he has no objection in case the FIR qua the petitioner is quashed.

Learned counsel for the petitioner as well as respondent Nos. 2 and 3 have jointly submitted that the present case is a case of

partial compromise inasmuch as, there were two other accused as per FIR one of which was declare innocent and the other was declared proclaimed offender. In support of his contention, learned counsel for the petitioner 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 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 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 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.

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. 165 dated 21.09.2019 under Sections 420, 506, 120-B of the Indian Penal Code, 1860 and Section 24 of the Immigration Act registered at Police Station Koom Kalan, District Ludhiana (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

April 21st, 2022

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