

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(234)

CRM-M-2693-2022

Date of decision: - 28.02.2022

Dumesh Chander and another

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Simsi Dhir Malhotra, Advocate,
for the petitioners.

Mr. H.S. Multani, AAG, Punjab.

Ms. Ekta Thakur, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.254 dated 08.11.2020, registered under Sections 379-B, 323, 411 of the Indian Penal Code, 1860 read with Sections 25/54/59 of the Arms Act at Police Station Model Town, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 03.02.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.254 dated 08.11.2020 registered under Sections 379-B, 323, 411 of the Indian Penal Code, 1860 read with Sections

25/54/59 of the Arms Act at Police Station Model Town, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 11.11.2020 (Annexure P-2).

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

Notice of motion for 28.02.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Ms. Ekta Thakur, Advocate appears on behalf of respondent No.2.

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.”*

In pursuance of the said order, the report has been submitted by the Chief Judicial Magistrate, Hoshiarpur to the Assistant Registrar of this Court. The relevant part of the report is reproduced hereinbelow:-

“From the statements of the complainant, the accused & Investigating Officer the report of the undersigned is as under:

- 1. That as per statements suffered by the complainant as well as Investigating Officer ASI Gurdial Singh No. 906 HPR, Police Post Purhira PS Model Town, Hoshiarpur in the present FIR, only two persons namely Dumesh Chander and Abhinav Kumar*

have been arrayed as accused.

2. *That as per the statement of Investigating Officer ASI Gurdial Singh No. 906 HPR, Police Post Purhira PS Model Town, Hoshiarpur, no accused is Proclaimed Offender in the present case.*
3. *That in view of the above statements of the complainant and the accused, I am of the opinion that the compromise is genuine, voluntary and out of free will.*
4. *That as per the statement of Investigating Officer ASI Gurdial Singh No. 906 HPR, Police Post Purhira PS Model Town, Hoshiarpur, no other FIR is pending against the accused persons at PS Model Town, Hoshiarpur.*
5. *That as per the statement of Investigating Officer ASI Gurdial Singh No. 906 HPR, Police Post Purhira PS Model Town, Hoshiarpur, there is only one complainant/victim namely Gaurav Garg in the present case.*

Hence, the report is submitted please as desired.

Thanking you

Yours faithfully,

Pushpa Rani

Chief Judicial Magistrate,

Hoshiarpur

UID No. PB-0279”

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntary and out of free will.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared

proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 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 feel that the same was 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 FIR No.254 dated 08.11.2020 registered under Sections 379-B, 323, 411 of the Indian Penal Code, 1860 read with Sections 25/54/59 of the Arms Act at Police Station Model Town, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

February 28, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No