

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(264)

CRM-M-3028-2021

Date of decision: - 04.07.2022

Sukhdev Singh Mithi and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Harpinder Singh Jalal, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Harmeet Singh, Advocate
for Mr. Vikram Anand, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.89, dated 19.05.2019, under Sections 307, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 and Sections 130, 131 and 171 of the Representation of People Act, 1951 & 1988, registered at Police Station Canal Colony, District Bathinda (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise.

On 22.01.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“In this petition, the Petitioners, who are the accused persons

in F.I.R No.89, dated 19.05.2019, under Sections 307, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 and Sections 130, 131, 171 of the Representation of People Act, 1951 & 1988, registered at Police Station Canal Colony, District Bathinda (Annexure P-1), have prayed for quashing of F.I.R. with all subsequent proceedings arising therefrom, on the basis of compromise.

Ld. Counsel for the Petitioners refers to the Compromise (Annexure P-2), and states that the matter has been amicably settled between the parties.

Notice of motion.

Mr. B.S. Sewak, Addl. Advocate General, Punjab to accept notice on behalf of Respondent No.1/State. A copy of the Paper-book be supplied to him.

At this stage, Mr. Vikram Anand, Advocate has put in appearance on behalf of Respondents No.2 and 3 through Video Conferencing and admits the factum of compromise.

In view of the matter, the parties shall appear before the Ld. Trial Court/Illaq Magistrate on 19.02.2021 for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

List on 26.05.2021.

January 22, 2021

**(SUDIP AHLUWALIA)
JUDGE"**

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

"From the above said statements before and as per the record available with this Court, I am to report as follows: -

1. *The compromise between the parties is genuine, voluntary and without any coercion or undue influence.*
2. *The total number of persons involved in the FIR is seven, namely, Sukhdev Singh, Davinder Singh, Kulwinder Singh, Pargat Singh, Jaspal Mangla, Chamkaur Singh and Yadwinder Singh, i.e., the petitioners.*
3. *None of the accused has so far been declared a proclaimed offender.*

*sd/
(Kapil Dev Singla), PCS(J),
Addl. Chief Judicial Magistrate,
Bathinda”*

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, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.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 bringing out peace and amity between the parties.

Learned counsel for the petitioners as learned State counsel and learned counsel appearing for respondents No.2 and 3 have jointly submitted that in the present case, no injury has been caused to any

person and thus, the offence under Section 307 IPC is not, prima facie, made out.

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 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, this petition is allowed and FIR No.89, dated 19.05.2019, under Sections 307, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 and Sections 130, 131 and 171 of the Representation of People Act, 1951 & 1988, registered at Police Station Canal Colony, District Bathinda (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 04, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No