

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(267)

CRM-M-3434-2021 (O&M)

Date of decision: - 18.05.2022

Baldev Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Shivya Sehgal, Advocate, for the petitioner.

Mr. A.A. Pathak, Additional A.G., Punjab.

Mr. Saleem Akhter, Advocate
for Mr. Nagesh Kumar Paul, 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.104 dated 02.12.2015 registered under Sections 323, 325, 294, 506 and 34 of the Indian Penal Code, 1860 at Police Station Jodhan, District Ludhiana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 20.04.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioner has submitted that in pursuance of the order dated 22.03.2022, the parties could not appear before the trial Court and seeks one more opportunity for 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 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 18.05.2022.

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.

(VIKAS BAHL)
JUDGE

20.04.2022”

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

“In compliance of the above said Order, firstly Ld. Counsel for the accused petitioner Baldev Singh filed the receipt bearing reference ID No. 0385852569 of Rs. 5000/- paid to the account of High Court Lawyers Welfare Fund.

It is further humbly submitted that in compliance of the said

order passed by Hon'ble Punjab and Haryana High Court only Jasbir Singh complainant/affected person/respondent no.2 appeared. But Baldev Singh accused/petitioner did not appear to make the statement in compliance of order passed by the Hon'ble Punjab and Haryana High Court. Complainant respondent no.2 Jasbir Singh made the following statement:

"Stated that an FIR no. 104 dated 02.12.2015 under Sections 325, 323, 294, 506, 34 IPC was got registered at PS Jodhan. Ludhiana by me against the accused Baldev Singh aged 34 years son of Nirmal Singh resident of Village Rattan, Police Station Jodhan. District Ludhiana, presently residing at WinckelmannstraBe 1, 1150 Wien 14/2, Austria (i.e. petitioner before the Hon'ble High Court in CRM No 3434 of 2021) now today I have come present being complainant (i.e. respondent no.2 before the Hon'ble Punjab and Haryana High Court) of the present FIR to record my statement, in compliance of order dated 20.04.2022 passed by the Hon'ble Punjab and Haryana High Court to record my statement regarding compromise with the accused /petitioner. I further stated that now with the intervention of the respectables, I have compromised the matter with the accused/petitioner namely Baldev Singh vide compromise dated 30.08.2020 (annexure-P2 filed before the Hon'ble High Court) out of my free Will, Voluntarily and without any coercion or undue influence and the said that I am investigating officer qua FIR No. 104/15 PS. Jodhan, Ludhiana and the present FIR has been registered against accused Baldev Singh (petitioner). Sukhdev Singh, Nirmal Singh and Pritpal Singh. Accused Sukhdev Singh, Nirmal Singh and Pritpal Singh has been a compromise is genuine one. It is further humbly. submitted that Vide Judgment dated 13/10/2018 passed by the court of Sh. Jagjeet Singh the then Ld. JMIC, Ludhiana in the above said FIR the co-accused namely Sukhdev Singh, Nirmal Singh and Pritpal Singh were acquitted by the court. However, accused/petitioner Baldev Singh was declared proclaimed person by the then Ld. Court of JMIC, Ludhiana in the present FIR and as per my information, accused is not involved in any other FIR. I am the only affected person

/complainant in the present case. I have no objection if the present FIR is quashed by the Hon'ble Punjab and Haryana High Court. Copy of my Adhar Card is Ex:PI."

Further again in compliance of order dated 20.4.2022 passed by Hon'ble Punjab and Haryana High Court. Investigating Officer also got recorded his statement which is as under: -

"Stated that I am investigating officer que FIR No. 104/15 P.S. Jodhan. Ludhiana and the present FIR has been registered against accused Baldev Singh (petitioner). Sukhdev Singh, Nirmal Singh and Pritpal Singh Accused Sukhdev Singh, Nirmal Singh and Pritpal Singh has been acquitted by the court of Sh. Jagjeet the then Ld. JMIC Ludhiana vide judgment dated 13.10.2018. The petitioner Baldev Singh was declared PO by the then Ld. JMIC Ludhiana in the present FIR. As per my information petitioner Baldev Singh is not involved in any other FIR Jasbir Singh is only affected person/complainant in the present case except him no other person is affected and complainant in the present case."

It is further humbly submitted that since only complainant namely Jasbir Singh/ respondent no.2 has appeared before this court as directed by the Hon'ble Punjab and Haryana High Court and from his statement, although he has stated that he has compromised the matter in question with accused/petitioner vide compromise dated 30.08.2020 out of his free Will, Voluntarily and without any coercion or undue influence and the said compromise is genuine one, but as already noted petitioner/accused has not appeared to record his statement before the court of undersigned, who as per the statement of investigating officer SI Rajinder Singh, Baldev Singh /petitioner was declared proclaimed offender by the then Ld. JMIC Ludhiana in the present FIR No.104 dated 02.12.2015 under Section 323, 325, 294, 506 and 34 IPC, PS Jodhan at Ludhiana."

Perusal of the above report would show that respondent No.2, who is the sole complainant/victim, has given a statement that he has no objection in case the FIR against the petitioner is quashed, even though, the petitioner on account of not being in India, could not get his

statement recorded.

Learned counsel for respondent No.2 has reiterated the fact that the matter has been compromised and has prayed that the present petition be allowed as all the disputes between the parties have been settled.

This Court has heard the learned counsel for the parties and has perused the file.

Primary concern of this Court is to see as to whether the complainant/victim has got his statement recorded without any coercion or undue influence.

After perusing the report submitted by the learned 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, this petition is allowed and FIR No.104 dated 02.12.2015 registered under Sections 323, 325, 294, 506 and 34 of the Indian Penal Code, 1860 at Police Station Jodhan, District Ludhiana (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

Pending application(s), if any, shall stand disposed of in view of the above-said order.

May 18, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No