

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(280)

CRM-M-2910-2019

Date of decision: - 29.08.2022

Rohit Giri Bawa and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Divya Sharma, Advocate, for the petitioners.

Mr. Vikas Arora, AAG, Punjab.

Mr. Jagdeep Pal Singh, 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.218 dated 26.07.2018, registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 and Sections 10 and 24 of the Immigration Act, 1983, at Police Station Division No.8, Ludhiana, and all the consequential proceedings arising therefrom on the basis of compromise.

On 19.11.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this application for issuance of direction to the parties to record their statements in support of the compromise effected between them.

Notice of the application to counsel opposite.

Mr. Shiv Kumar, Advocate accepts notice on behalf of non-

applicant-respondent No.2 and acknowledges the compromise effected between the parties.

In view of the above, this application is allowed and the parties are directed to appear before the trial Court/Illaqa Magistrate for recording their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaqa Magistrate is directed to submit a report on or before the next date of hearing fixed in the main case i.e. 12.12.2019, containing the following information: -

- 1. Number of persons arrayed as accused in FIR,*
- 2. Whether any accused is proclaimed offender, and*
- 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.*

CRM stands disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

19.11.2019”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Ludhiana, to the Registrar this Court.

The relevant part of the report is reproduced hereinbelow:-

“In view of the aforesaid order of Hon'ble Punjab and Haryana High Court, statement of the concerned parties i.e. Sham Sunder Gupta (Attorney of complainant), and Bhavnesh Giri, Rohit Giri (accused) have been recorded. True copies of the statements so recorded, are enclosed with. Accused Jignesh Giri did not appear to get his statement recorded. He has absented from the court proceedings and his proclamation has been issued.

After going through the statements of the parties i.e. petitioner and Respondent, this court is of the opinion that the statements are not the result of any pressure or coercion in any manner between the

parties. The compromise is a valid compromise. It is further submitted that as per the report under section 173 Cr.P.C. there are four accused namely Rohit Bawa, Bawesh Giri, Veerpal Kaur and Kamaljit singh who have been kept in column No.2 while there are three accused namely Jignesh Giri, Ritesh Dalip Kumar Shah and Sukhjinder Kaur against whom challan has been presented in the court. None of the accused is Proclaimed Offender in this case. Further, as per the statement of Investigating Officer SI Manjit Singh there is only one complainant namely Neeraj Gupta in the present FIR and no other FIR is pending against the accused persons namely Rohit Giri, Bhavesh Giri and Jagnesh Giri at police station Division No.8, Ludhiana.

Submitted Please,

Yours faithfully

*(Puneet Mohinia)
Judicial Magistrate Ist Class,
Ludhiana.7-12-2019
UID No.PB-0497"*

A perusal of the said report would show that although, three petitioners/accused have filed the present petition, but only the complainant and petitioners No.1 and 2 had appeared before the trial Court in support of the compromise to record their statements and petitioner No.3 Jagnesh Giri Bawa @ Ravi had not appeared. There are other accused in the present case apart from the present petitioners. It is stated that the compromise entered between the said parties is genuine, voluntary and without any pressure.

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

petitioners/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 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 petitioners No.1 and 2 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 partly allowed and FIR No.218 dated 26.07.2018, registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 and Sections 10 and 24 of the Immigration Act, 1983, at Police Station Division No.8, Ludhiana and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua petitioners No.1 and 2.

However, liberty is granted to petitioner No.3 to file a fresh petition on the basis of compromise, in case, the compromise is still

effectual with petitioner No.3 and if petitioner No.3 and the complainant are ready to make their statements before the trial Court in support of the such said compromise, if effectual.

August 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No