

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CRM-M-3602-2020
Decided on : 19.04.2022

Aasif Ali @ Aashi and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sadiq Ali Khan, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Rahul Sharma, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 54 dated 07.06.2019 under Sections 452, 323 and 34 of the Indian Penal Code, 1860 registered at Police Station City-II, District Malerkotla (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 30.01.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.54 dated 07.06.2019 under Sections 323 and 452 IPC read with Section 34 IPC, Police Station City-II, Malerkotla, District Sangrur and all subsequent proceedings arising therefrom, on the basis of compromise dated 05.11.2019 (Annexure P/3) arrived at between the parties.

Notice of motion.

Mr. Harpreet Singh Multani, Assistant Advocate

General, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Rahul Sharma, Advocate, filed Power of Attorney on behalf of respondent No.2, which is taken on record.

Learned counsel for respondent No.2 has given concurrence to the factum of compromise.

Let the parties appear before the trial Court/Area Magistrate on 02.03.2020 for getting their statements recorded with regard to the compromise. Court is directed to report on the following points:-

- (i) how many total accused are facing the trial,*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial,*
- (iii) status/stage of the trial/case,*
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.*
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.*

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 30.03.2020.

*Sd/-
(Lalit Batra)
Judge”*

30.01.2020

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

“The statement of investigating officer has also been recorded that there is only one person namely Mohd. Shahbaz is victim/complainant in FIR No. 54 dated 07.06.2019 U/s 452, 323/34 IPC,

P.S. City-II, Malerkotla and there are four accused namely Mohd. Liaqat alias Bhainga, Saani, Aasif Ali alias Aasi and Shakil in the present case and none of accused has not been declare proclaimed offender and challan has not been presented in the aforesaid FIR.

xxx—xxx--xxx

In view of the statement of complainant Mohd. Shehbaz and accused Mohd. Liaqat alias Bhainga, Saani, Aasif Ali alias Aasi and Shakil, it is apparent that the matter has been compromised between the parties. In light of their statements compromise between the parties is result of free volition of the parties and without any inducement, threat or pressure. There are four accused in the present case namely Mohd. Liaqat alias Bhainga, Saani, Aasif Ali alias Aasi and Mohd. Shakil. Perusal o record reveals that in the present case Challan is yet to be presented. As per the statement of accused, statement of investigating officer and as per the record, none of accused has been declared proclaimed offender in the present case. Accordingly report is being submitted please.

Thanking you.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioners 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.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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 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, the petition is allowed and FIR No. 54 dated 07.06.2019 under Sections 452, 323 and 34 of the Indian Penal Code,1860 registered at Police Station City-II, District Malerkotla (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

April 19th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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