

**IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

(304)

CRM-M-4016-2022

Date of Decision: 01.08.2022

VIVEK SHARMA AND OTHERS

...Petitioners

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kulwinder Gill, Advocate for
Mr. Kanwaljeet Singh Brar, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG Punjab.

None 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.72 dated 22.05.2019, under Sections 323, 324, 427 and 34 of the Indian Penal Code, 1860, registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib (Annexure P-1) all the subsequent proceedings emanating therefrom on the basis of compromise.

On 11.02.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

"Case heard via video conferencing.

This petition has been filed seeking quashing, on the basis of a compromise arrived at between the petitioners and respondents no.2 and 3, of FIR no.72 dated 22.05.2019 (as also all other subsequent proceedings arising therefrom), registered at Police Station Fatehgarh Sahib, for the alleged commission of offences punishable under Sections 323, 324 and 427 of the IPC, read with Section 34 thereof. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents. On the asking of the Court, Mr. Sidakmeet Sandhu, learned AAG, Punjab, accepts notice on behalf of respondent no.1. Respondents no.2 and 3 be served by normal process.

A copy of the petition be e-mailed to learned State counsel by learned counsel for the petitioners today itself.

Adjourned to 26.05.2022.

In the meanwhile, the petitioner, as also respondents no.2 and 3, would appear before the learned Area Magistrate/trial Court (as the case may be) up to 25.04.2022 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners.

February 11, 2022

**(AMOL RATTAN SINGH)
JUDGE"**

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

"From their statements, it seems that the compromise between the parties is voluntary and is not the result of any pressure or coercion in any manner. There are only four accused namely Vivek Sharma son of Harmesh Lal, Harmesh Lal son of Channi Lal, Sulakhshna Sharma wife of Harmesh Lal, Rampal Sharma son of Chuni Lal and one complainant namely Ishan Sharma and one injured Kuldeep Sharma in the present FIR Photo copies of statements of complainant Ishan Sharma, injured Kuldeep Sharma, accused Vivek Sharma son of Harmesh Lal, Harmesh Lal son of Channi Lal, Sulakhshna Sharma wife of Harmesh Lal, Rampal Sharma son of Chuni Lal and IO SI Baldev Singh No. 61 /FTG posted at city Morinda are enclosed herewith for your honour's kind perusal.

Submitted please.

Yours faithfully,

Enclosure: As above

*(Harpreet Kaur, PCS)
Judicial Magistrate Ist Class,
Fatehgarh Sahib"*

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 none of the petitioners has been declared a proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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.72 dated 22.05.2019, under Sections 323, 324, 427 and 34 the Indian Penal Code, 1860, registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib (Annexurre P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

01.08.2022
naresh.k/Ajay Goswami

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No