

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

262

CRM-M-3365-2020
Decided on : 17.05.2022

Gurmail Singh

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Kashmir Singh, Advocate for
Mr. Lalit Chander 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. 217 dated 25.07.2008 under Sections 447, 442 and 34 of the
Indian Penal Code, 1860 registered at Police Station Bagha Purana,
District Moga (Annexure P-1) and all subsequent proceedings arising on
the basis of the compromise.

On 22.04.2022, this Court was pleased to pass the
following order:-

“CRM-41090-2021

*This is an application filed under Section
482 of Cr.P.C. for preponement of the date of
hearing in the main case which is now stated to
be listed for 20.09.2022 to an early date.*

Learned counsel for the applicant-

petitioner has submitted that the present matter has been compromised and thus, prays that the FIR qua the petitioner be quashed and also prays for preponement of date of hearing in the main case to an early date.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Lalit Chander Sharma, Advocate appears on behalf of nonapplicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 20.09.2022 to today.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 20.09.2022 to today and the same is taken on Board today itself.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.217 dated 25.07.2008 registered under Sections 447/442/34 of the Indian Penal Code, 1860 at Police Station Bagha Purana, District Moga and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner and respondent No.2 have jointly submitted that in the present case, compromise has been effected between the parties and they are ready to give their statement before the trial Court in support of compromise.

Adjourned to 17.05.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.”*

In pursuance of the above order, a report has been submitted by the Sub Divisional Judicial Magistrate, Baghapurana to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“It is humbly submitted in terms of the order dated 22.04.2022 passed by Honourable Punjab & Haryana High Court in CRM-41090-2021 in CRM-M-3365-2020 that:-

- 1. In his statement, Amar Singh complainant stated that the present FIR was lodged against accused Jagjit Singh. Jagnandan Singh, Sukhwant Kaur, Jarnail Singh. Darshan Singh and Gurmail Singh. Out of these six accused, five accused namely*

- Jagjit Singh, Sukhwant Kaur, Jarnail Singh. Darshan Singh have been acquitted vide judgment dated 03.10.2017. Now with the intervention of the respectables, he has compromised the matter with the above said accused person Gurmail Singh and compromise is effected without any pressure or coercion and with his free will.*
- 2. In his statement, accused Gurmail Singh has stated that with the intervention of respectables, he has compromised the matter with the complainant with his free will and without any pressure or coercion. He further submitted that he is not the accused in any other FIR.*
 - 3. That Jagjit Singh, Jagnandan Singh. Sukhwant Kaur, Jarnail Singh, Darshan Singh and Gurmail Singh are accused persons in this FIR. Out of six accused, five accused namely Jagjit Singh, Jagnandan Singh, Sukhwant Kaur, Jarnail Singh and Darshan Singh have already been acquitted by the court vide judgment dated 03.10.2017.*
 - 4. That none of the accused has been declared as proclaimed offender in this case.*
 - 5. That accused Gurmail Singh is not involved in any other FIR.*
 - 6. As per statement of Investigating Officer, except Amar Singh complainant, there is no other victim/complainant in the present FIR.*

The above statements of parties have been recorded in presence of their counsels. So, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. Copies of statements of parties have been attached with this report.

Thanking you,”

A perusal of the above report would show that there were total 6 accused in the present case out of which 5 accused have already been acquitted vide judgment dated 03.10.2017 and the compromise has been effected with the sixth accused i.e. the present petitioner. It has further been stated that the statements of Complainant as well as the petitioner have been recorded in the case and they 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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and is 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

as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioner and the complainant and the present FIR having been compromised deserves to be quashed. 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. 217 dated 25.07.2008 under Sections 447, 442 and 34 of the Indian Penal Code, 1860 registered at Police Station Bagha Purana, Distict Moga (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioner.

May 17th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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