

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

263

CRM-M-5169-2021
Decided on : 19.05.2022

Surender @ Chhinda

. . . Petitioner

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Ravinder Malik (Ravi), Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Garvit Mittal, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 65 dated 28.05.2020 Sections 406, 420, 370, 120-B of the Indian Penal Code, 1860, Section 12 of the Passport Act, 1967 and Sections 10, 24 and 25 of the Emigration Act, 1983 (Sections 370, 120-B of IPC, Section 12 of Passport Act, 1967 and Sections 10, 24 and 25 of Emigration Act 1983 added later on) registered at Police Station Jhansa, District Kurukshetra (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 04.02.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The matter has been taken up for hearing

through video conferencing due to outbreak of COVID-19.

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR along with all consequential proceedings arising therefrom on the basis of compromise entered into between the parties.

Notice of motion for 18.05.2021.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 15.03.2021.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of the parties, on or before the next date of hearing containing the following information as well:

- (i) Number of persons arrayed as accused in FIR;*
- (ii) Whether any accused is proclaimed offender;*
- (iii) The stage of trial/proceedings; and*
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

*Sd/-
February 04, 2021 (HARI PAL VERMA)
JUDGE”*

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

“(i) As per the order of the Hon'ble High Court dated 04.02.2021 in the case titled "Surender @

Chhinda Vs. State of Haryana and another" in CRM-M-5169-2021, this Court was directed to record the statements of both the parties i.e. the complainant, his son (victim) Gurwinder Singh and the accused on 15.03.2021. The complainant namely Mandeep Kaur, his son (Victim) Gurwinder Singh as well as accused Surender @ Chhinda son of Banta Singh appeared before the Court on 15.03.2021. In compliance of the order dated 04.02.2021 passed by the Hon'ble High Court in letter and spirit the statement of both these parties were recorded in duplicate.

(ii) Both the parties have clearly stated that they have entered into the compromise voluntarily, without any pressure.

(iii) As per record and report of the SHO, P.S. Jhansa, District Kurukshetra regarding involvement of any other person, there is no other person except accused Surinder @ Chhinda and none of them has been declared as P.O. Or is absconding in the present case. The challan has already been presented on 18.11.2020 and the same was committed to the court of learned Sessions Judge, Kurukshetra on 20.11.2020. Now same is pending before the court of Dr. Amit Kumar Garg, learned Additional Sessions Judge, Kurukshetra for 01.07.2021 for prosecution evidence.

(iv) This court is of the considered view that the compromise has been reached voluntarily between the parties and both the parties have made their statements voluntarily without any threat, inducement or pressure.

The original statements of the parties i.e. of the complainant, his son (victim) Gurwinder Singh as well as accused Surender @ Chhinda son of Banta Singh are enclosed herewith for the kind perusal of the Your Honour.”

Although, in the present petition, respondent No. 2 (complainant) has been made a party but a perusal of the report would show that even the victim namely Gurwinder Singh S/o Attar Singh had given his statement in support of the compromise. Statements of both the parties 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 statements of the complainant and the victim have 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. 65 dated 28.05.2020 Sections 406, 420, 370, 120-B of the Indian Penal Code, 1860, Section 12 of the Passport Act, 1967 and Sections 10, 24 and 25 of the Emigration Act, 1983 (Sections 370, 120-B of IPC, Section 12 of Passport Act, 1967 and Sections 10, 24 and 25 of Emigration Act 1983 added later on) registered at Police Station Jhansa, Distict Kurukshetra (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioner.

May 19th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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