

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-3641-2019

Date of decision : 26.08.2022

Kamaljit Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aakash Kumar Gupta, Advocate
for the petitioners.

Mr.M.S.Bajwa, DAG, Punjab.

Mr. R. S. Dhaliwal, Advocate for
Mr. Vinod Sharma, Advocate
for respondents no.2 to 5.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.12 dated 28.01.2016 registered under Sections 323, 324, 452, 307, 148, 149 IPC and Section 25 of the Arms Act at Police Station Division no.3, District Jalandhar and all other consequential proceedings arising therefrom on the basis of compromise.

On 05.08.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No. 12 dated 28.01.2016 registered under Sections 323, 324, 452, 307, 148 and 149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Division No. 3, District Jalandhar (Annexure P-1) and subsequent proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioner has submitted that in the present case, no injury has been declared as dangerous to life and all the injuries are simple in nature and thus, the offence under Section 307 IPC, prima facie, is not made out. It is further submitted that in the present case, there are 6 accused persons but however, the compromise has been effected with only three accused persons who have filed the present petition and has thus, 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 petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.*

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

Adjourned to 26.08.2022.

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.*

Learned State counsel is directed to verify the fact as to whether any injury has been declared to be dangerous to life or not.

05.08.2022”

In pursuance to the said order, a report has been submitted by the Additional District & Sessions Judge, Jalandhar. The relevant portion of the said report is reproduced hereinbelow:-

respondents on the one side and the accused/petitioner no.1 namely Kamaljit Singh @ Kamal on the other side, as well as keeping in view the facts of the case this court is of the opinion that it seems that the compromise arrived at between the complainant side and the aforesaid accused petitioner no.1 is without any inducement or promise on the part of anyone.

9. Accordingly report is hereby respectfully submitted for kind perusal of the Hon'ble High Court. in compliance of order dated 05.08.2022 passed by the Hon'ble High Court in the abovesaid case. Copies of statements of complainants respondents no.2 to 5 and of injured Parveen Kapoor and statement of accused petitioner no. I recorded in this Court on 23.8.2022 and of the IO, are enclosed herewith for kind perusal please.

Thanking you

Yours faithfully,

*(K. K. Jain)
Addl. Distt. & Sessions Judge,
Jalandhar”*

A perusal of the above said report would show that although three petitioners have filed the present petition but only petitioner no.1 Kamaljit Singh had appeared in respect of compromise. All the complainants/respondents have however, appeared in respect of compromise and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

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 petitioner/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-16318-2015 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 State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua petitioner no.1.

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 two parties.

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 petitioner 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.”

In view of what has been discussed hereinabove, this petition is allowed qua petitioner no.1 and FIR no.12 dated 28.01.2016 registered under Sections 323, 324, 452, 307, 148, 149 IPC and Section 25 of the Arms Act at Police Station Division no.3, District Jalandhar and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner no.1.

The petition qua petitioners no.2 and 3 is dismissed. However, liberty is granted to petitioners no.2 and 3 to file a fresh petition in case the compromise is still effectual and parties are ready to give statements in respect of the compromise.

August 26, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No