

S.No.247

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

CRM-M-5460 of 2022

Date of Decision:09.03.2022

Mandeep Singh

.....Petitioner

Vs.

State of Punjab and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Harleen Ahluwalia, Advocate
for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J.

This is a petition under Section 482 Cr.P.C. for quashing of the Rapat dated 28.11.2011 (Annexure P-2) under Sections 307/323/148/149 IPC and 25/54 of Arms Act, 1959 in FIR No.131 dated 27.11.2011, under Sections 307/427/323/506/148/149 IPC and under Section 25/27 of Arms Act, 1959 (Annexure P-1) registered at Police Station Mehna, District Moga and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 10.02.2022, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of Rapat dated 28.11.2011 (Annexure P-2) under Sections 307, 323, 148 and 149 IPC and Sections 25/54 of the Arms Act, 1959 in FIR No.131 dated 27.11.2011, under Sections 307, 327, 323, 506, 148 and 149 of Indian Penal

Code, 1860 and under Sections 25/27 of the Arms Act, 1959, registered at Police Station Mehna, District Moga and all the subsequent proceedings arising therefrom on the basis of compromise. Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise.

Notice of motion for 09.03.2022.

On asking of the Court, Mr. Sarabjit Singh Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Ms. Harleen Ahluwalia, Advocate appears on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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 said order, a report has been submitted by the Judicial Magistrate Ist Class, Moga to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Joint statements of the petitioners as well as that of respondent were recorded. Through the same, the parties stated that in unison that they had voluntarily entered into a compromise and that they were making statements in the Court

voluntarily, free from any duress or inducement. In this case one accused have been arrayed as accused. No accused has been proclaimed offender. All the parties named in the FIR have made their statements regarding the compromise.

Statement of Investigating Officer was also recorded. His statement recorded in the Court is also enclosed with this letter.

From the statements of the parties, it is concluded that the compromise so effected between the parties is genuine and voluntary in nature. Hence the report.

Thanking you,

Yours faithfully,

Sd/-

*Encl; Statement of parties
03 pages*

*Poonam Kashyap, PCS,
Judicial Magistrate Ist Class,
Moga.”*

1. A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused 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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case.

Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondent No.2- complainant has

reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

Learned counsel for the petitioner as well as respondents have submitted that in the present case Section 307 IPC was deleted and even the co-accused of the petitioner have been acquitted vide judgment dated 22.08.2017 (Annexure P.6) as all the material witnesses had turned hostile. In the said acquittal order, it has been noticed that the co-accused have been acquitted of the offence punishable under Sections 506, 148, 323, 149 IPC.

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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and Rapat dated 28.11.2011 (Annexure P-2) under Sections 307/323/148/149 IPC and 25/54 of Arms Act, 1959 in FIR No.131 dated 27.11.2011, under Sections 307/427/323/506/148/149 IPC and under Section 25/27 of Arms Act, 1959 (Annexure P-1) registered at Police Station Mehna, District Moga and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

March 09, 2022
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(VIKAS BAHL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No