

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-5995-2022

Date of decision : 15.03.2022

Devinder Singh and another

... Petitioners

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vikas Thakur, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.Harsh Nagra, Advocate
for respondent nos.2 & 3.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 482 Cr.P.C. praying for quashing of FIR No.169 dated 12.11.2014 registered under Sections 452, 506, 148, 149 IPC at Police Station Phase 8, District SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of compromise.

On 14.02.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.169 dated 12.11.2014 registered under Sections 452, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Phase-8, District SAS Nagar, Mohali (Annexure P-1) and charge-sheet dated 07.01.2020 and all the subsequent

proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 15.03.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Harsh Nagra, Advocate appears on behalf of respondent Nos.2 and 3.

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 to the said order, a report has been submitted by the Judicial Magistrate Ist Class, SAS Nagar, Mohali. The relevant portion of the said report is reproduced hereinbelow:-

“The point wise report of the undersigned for is as under your kind perusal:-

1. Number of persons arrayed as accused:

There are only two accused in the present FIR No.169 dated 12.11.2014, namely, Davinder Singh and Prem Singh.

2. ***Whether any accused is proclaimed offender?***

As per the version of both the accused, namely, Davinder Singh and Prem Singh, they are not proclaimed offenders/persons in any case.

Further, as per the statement of Investigating Officer, SI Paramjit Singh, no accused was found or declared proclaimed offender during investigation.

However, upon the perusal of the judicial case file, it is pertinent to disclose that vide order dated 02.03.2019, upon failure of accused Prem Singh to appear in the trial Court, in the present case itself, he was declared as proclaimed person absconding from the law by the Ld. Court of Sh. Harpreet Singh, the then JMIC, SAS Nagar, Mohali. A copy of the said order is hereby annexed as Annexure A-6. Further, as per order dated 24.02.2020 passed by the Ld. Court of Ms. Ruchi Swapan Sharma, JMIC, SAS Nagar Mohali, it is revealed that the accused Prem Singh had been wrongly mentioned as proclaimed offender in the previous orders dated 24.01.2020 and 10.02.2020, whereas in fact he had been granted bail vide order dated 02.11.2019 and the said orders were rectified and corrected to that extent. The copy of the relevant order dated 24.02.2020 is annexed as Annexure A-7.

3. ***Whether the compromise is genuine, voluntary and without any coercion or undue influence?***

The compromise dated 30.12.2021 as Annexure-A1 arrived at between the parties is genuine, voluntarily and without any coercion or undue influence.

4. ***Whether the accused persons are involved in any other FIR or not?***

As per the record available with the undersigned

and from the perusal of the statements of the parties, no other case is pending against the accused persons.

5. *The Court has also recorded the statement of the Officer as to how many victims/ complainants are there in the FIR:*

The statement of Investigating Officer SI Paramjit Singh No.308/SAS Nagar has been recorded, as per which there is no other victim and complainant/informant involved in this case except Kuldeep Kaur and Bahadur Singh respectively.

Copy of the Identity Card of the concerned official is Ex.P1.

Further, the statement of the other Investigating Officer SI Harpal Singh (Redt) has been recorded to the effect that the instant FIR No.169 dated 12.11.2014 was registered on the basis of the statement of the complainant/informant Bahadur Singh recorded by him against accused Prem Singh and other 5-6 unknown persons. Thereafter, he was transferred to P.S Block Majri, Sub Division Kharar, District Mohali and investigation of the present case was handed over to another IO. Copy of Identify Card of the concerned official is Ex.P2.

Therefore, the report with regard to the genuineness of the compromise effected between' the parties along with the copies of the statements of the complainant/informant, statement of the victim, statements of the accused, statements of the Investigating Officers and the documents placed on record be submitted through Proper Channel to the Hon'ble Punjab and Haryana High Court, Chandigarh, well before the date fixed i.e. 15.03.2022.

Report is submitted for kind perusal and necessary

action please.

Thanking You,

Yours sincerely,

*Sd/-
(Vaishnavi Sikka)
Judicial Magistrate 1st Class,
SAS Nagar Mohali.
UID No. PB-0647”*

A perusal of the above said report would show that the petitioner and respondent nos.2 and 3 (complainant and victim) have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, voluntary and out of free will.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offenders in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

Learned counsel for respondents no.2 and 3 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 petitioners and the complainant and victim. 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 and FIR No.169 dated 12.11.2014 registered under Sections 452, 506, 148, 149 IPC at Police Station Phase 8, District SAS Nagar, Mohali

and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

March 15, 2022.
Davinder Kumar

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