

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-6218-2022

Date of decision : 15.03.2022

Gurpreet Singh @ Rupinder Singh @ Gopi

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Angel Walia, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

None for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 482 Cr.P.C. praying for quashing of FIR No.0058 dated 16.04.2021 registered under Sections 365, 342, 341, 506, 323, 120-B, 148, 149 IPC and Section 25/27 of the Arms Act, 1959 at Police Station Raja Sansi, Amritsar Rural, Amritsar 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.58 dated 16.04.2021 registered under Sections 365/342/341/506/323/120-B/148/149 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959 at Police Station Raja Sansi, Amritsar Rural, Amritsar (Annexure P-1) and 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 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. Amandeep, 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 to the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Ajnala. The relevant portion of the said report is reproduced hereinbelow:-

“From the perusal of statement of parties, it transpires that the matter has been compromised with the free and voluntary consent of complainant and accused Rupinder Singh @ Gurpreet Singh @ Gopi. Furthermore, as per statement of ASI Agyapal Singh no. 902, there are three accused persons namely Sukhpinder Singh son of Sukhdeep Singh, Harcharanjit Singh @ Harry son of Kashmir Singh and Rupinder Singh @ Gurpreet Singh @ Gopi and 2/3 unknown persons

whereabouts of whom are yet to be known in FIR No. 58 dated 16.04.2021, under Section 365, 342, 341, 506, 323, 120-B, 148, 149 of IPC and Sections: 25, 27 of Arms Act.

Furthermore, as per the statement of ASI Agyapal Singh no.902, there are total of three accused persons namely Sukhpinder Singh son of Sukhdeep Singh, Harcharanjit Singh @ Harry son of Kashmir Singh and Rupinder Singh @ Gurpreet Singh @ Gopi by name in the abovesaid FIR alongwith 2/3 unknown persons. Further, no accused has been declared P.O till today, whereas, the proclamation proceedings are pending against the accused Gurpreet Singh, Rupinder Singh @ Gopi and Harcharanjit Singh @ Harry, whereas, the accused Sukhpinder Singh has obtained bail and there is only one aggrieved party namely Jagjit Singh son of Gurnam Singh.

Report is submitted as desired, please.

*Encls : 1. Statement of the complainant Yours faithfully,
Jagjit Singh, 2. Statement of the accused Sd/-
Gurpreet Singh @ Rupinder Singh (Prabhjot Kaur),PCS,
@ Gopi 3. Statement of ASI Sub Divisional Judicial Magistrate
Agyapal Singh. Ajnala/UID NO.:PB0363”*

A perusal of the above said report would show that the petitioner and respondent no.2 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 petitioner has pointed out that the present case is a case of partial compromise inasmuch as out of three accused persons, only one person has filed the present petition. Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he was not declared proclaimed offenders in the present

case.

Learned counsel for the petitioner 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 petitioner has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2018 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 the petitioner.

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 and FIR No.0058 dated 16.04.2021 registered under Sections 365, 342, 341, 506, 323, 120-B, 148, 149 IPC and Section 25/27 of the Arms Act, 1959 at Police Station Raja Sansi, Amrtisar Rural, Amritsar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

March 15, 2022.
Davinder Kumar