

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(247)

CRM-M-6425-2022

Date of decision: - 14.03.2022

Sukhwinder Singh and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sunil Kumar, Advocate, for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Mann Akashdeep Singh, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of cross case vide DDR No.22 dated 05.08.2021 registered under Sections 326/323/148/149 of the Indian Penal Code, 1860 (Annexure P-2) in FIR No.50 dated 22.05.2021 registered under Sections 307/379/341/148/149 of IPC at Police Station Shri Hargobindpur, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 17.02.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for

quashing of cross case vide DDR No.22 dated 05.08.2021 registered under Sections 326/323/148/149 of the Indian Penal Code, 1860 (Annexure P-2) in FIR No.50 dated 22.05.2021 registered under Sections 307/379/341/148/149 of IPC at Police Station Shri Hargobindpur, District Gurdaspur (Annexure P-1) 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 14.03.2022.

On asking of the Court, Mr. Saurav Khurana, Deputy Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Mrs. G.K. Mann, Sr.Advocate with Mr. Gursewak Singh, Advocate and Mr. Mann Akashdeep Singh Advocate appears on behalf of respondent No.2.

Learned Senior Counsel for respondent No.2 has submitted that in the present case, Section 307 of IPC is not made out inasmuch as there is no opinion of Doctor declaring any injuries to be dangerous to life and even perusal of the FIR would show that the injury with khanda is on the left arm of the complainant-Sukhwinder Singh. Even reference has been made to MLR which would also show that there is no serious injury on any vital part of the body. Thus, from the said facts, it is prima facie clear that Section 307 of IPC is not made out.

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

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, the report has been submitted by the Judicial Magistrate First Class, Batala to the Assistant Registrar (Judicial) of this Court. The relevant part of the report is reproduced hereinbelow:-

“Pursuant to the order dated 17.02.2022 passed by the Hon'ble High Court in CRM-M-6425 of 2022 titled as Sukhwinder Singh & Others Vs. State of Punjab & Another, report is hereby submitted to the effect that the statements of complainant/respondent No.2 Manmeet Singh son of Piara Singh, resident of Village and Post Office Bhamri. District Gurdaspur and Petitioner No.1/accused Sukhwinder Singh son of Bachan Singh, Petitioner No.2/accused Balwinder Singh alias Bittu son of Karnail Singh. Petitioner No.3/accused Kirpal Singh son of Guljar Singh. Petitioner No.4/accused Mandip Singh son of Guljar Singh. Petitioner No.5/accused Manjit Kaur wife of Guljar Singh and Petitioner No.6/accused Jaspinder Kaur alias Pinki wife of Ranjit Singh, all residents of Village Bham, Tehsil Batala, District Gurdaspur, recorded on 02.03.2022. This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any fear, pressure, threat or coercion and out of their free will.

It is further submitted that statement of ASI Tarlok Singh No. 3046/Btl. Police Station Shri Hargobindpur. recorded. He stated that he brought the record of DDR No.22 dated 05.08.2021. registered under Sections 326, 323, 148 & 149 IPC, in FIR No.50 dated 22.05.2021, registered at Police Station Shri Hargobindpur. This DDR was registered on the statement of complainant Manmeet Singh son of Piara Singh, resident of Village and Post Office Bhamri, District Gurdaspur, against eleven accused namely Sukhwinder Singh son of Bachan Singh. Balwinder Singh alias Bittu son of Karnail Singh, Kirpal Singh son of Guljar Singh. Mandip Singh son of Guljar Singh, Manjit Kaur wife of Guljar Singh and Jaspinder Kaur alias Pinki wife of Ranjit Singh, all residents of Village Bham, Tehsil Batala, District Gurdaspur. Major Singh son of Baldey Singh, Noni

son of Baldev Singh, Mehakdeep Singh son of Ranjit Singh, residents of Village Bham, Tehsil Batala. District Gurdaspur. Jagdeep Singh son of Kala Nihang, resident of Mari Angarh, P.S. Sri Hargobindpur and Raja son of Kuldip Singh, resident of Village Mokhal, P.S. Qadian. He further stated that neither complainant nor accused have been declared as proclaimed offenders nor any proclamation proceedings are pending against them. He further stated that the accused persons are not involved in any other FIR.

*Jagminder Kaur,
Judicial Magistrate, 1st class,
Batala. UID No. PB0435"*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the cross-case/FIR in question is quashed. They have further stated that the said compromise is being entered into with there without any fear, pressure, threat or coercion and out of their free will.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned trial Court,

this Court finds that the matter has been amicably settled between the petitioners 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 feel that the same was 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, this petition is allowed and cross case registered vide DDR No.22 dated 05.08.2021 under Sections 326/323/148/149 of the Indian Penal Code, 1860 (Annexure P-2) in FIR No.50 dated 22.05.2021 registered under Sections 307/379/341/148/149 of IPC, at Police Station Shri Hargobindpur, District Gurdaspur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 14, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No