

S.No.248

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

CRM-M-6535 of 2022 (O&M)

Date of Decision:09.03.2022

Richard Dsouza

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Akshay Rana, Advocate for the
complainant.

(Through Video Conferencing)

VIKAS BAHL, J.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.195 dated 05.12.2021 registered under Sections 323/325/427 of the Indian Penal Code, 1860 at Police Station Sadar Jalandhar, District Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 15.02.2022, the following order was passed:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.195 dated 05.12.2021, registered under Sections 323, 325 and 427, IPC, at Police Station Sadar Jalandhar, District Jalandhar, 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. Karanbir Singh, AAG, Punjab, appears and accepts notice on behalf of the respondent-State and Mr. Akshay Rana, 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 District & Sessions Judge, Jalandhar to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Keeping in view all aspects, statements of the both the parties and of statement of IO/ASI Rajinder Singh, the requisite information, as sought for, is submitted as under:

- I) Only one person has been arrayed as accused;*
- II) Accused has not been declared as proclaimed offender in this case;*
- III) The compromise is genuine, voluntary and without any coercion or undue influence;*
- IV) There is no involvement of accused in any other case;*
and

V) There is only one victim/complainant namely Sanjeev Kumar in this case.

Report is submitted with regards,

Yours faithfully,

Sd/-

*Addl. Chief Judicial Magistrate,
Jalandhar."*

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 and is not involved in any other case.

Learned counsel for the State, as per instructions, has stated that these facts are 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.

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 FIR No.195 dated 05.12.2021 registered under Sections 323/325/427 of the Indian Penal Code, 1860 at Police Station Sadar Jalandhar, District Jalandhar Annexure P-1) 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