

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

273

CRM-M-7765-2021
Decided on : 16.05.2022

Rajinder Singh and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Kamal Narula, Advocate
for the petitioners.

Mr. Hittan Nehra, Addl. AG, Punjab.

Mr. Munish Gulati, Advocate for
Mr. K. S. Mamrath, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 71 dated 15.05.2020 under Sections 379-B, 341, 323, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Jalalabad, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 18.02.2021, a Coordinate Bench of this Court was pleased to pass the following order:

“The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR along with all consequential proceedings arising therefrom on the basis of compromise entered into between the parties.

Notice of motion.

At this stage, Mr. Avtar Singh Sandhu, Addl. AG, Punjab, has put in appearance and accepts notice on behalf of respondent-State.

Mr. K.S. Mamrath, Advocate, has put in appearance and accepts notice on behalf of respondent No.2 and admits the factum of compromise entered between the parties.

Adjourned to 17.05.2021.

Meanwhile, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 26.03.2021.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of the parties, on or before the next date of hearing containing the following information as well:

- (i) Number of persons arrayed as accused in FIR;*
- (ii) Whether any accused is proclaimed offender*
- (iii) The stage of trial/proceedings; and*
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

February 18, 2021 *Sd/-
(HARI PAL VERMA)
JUDGE”*

In pursuance of the said order, a report has been submitted by the Additional District & Sessions Judge, Fazilka to the Registrar of

this Court. The relevant portion of the said report is reproduced hereinbelow:-

“As per complainant, there is also no other person except complainant whose consent is required for compromise. There is no other litigation or criminal cases are pending between complainant and the accused. The photo copy of compromise deed is Ex.C1. As we have compromised the matter, so on the basis of this compromise, this FIR may please be quashed.

Similarly the other party accused also deposed that they have entered into an compromise with complainant party. Now accused repent the incident and have compromised the matter genuinely with complainant, without any undue influence, pressure and without any force. We assure that we will not repeat such type of act in future. Statement of accused Rajinder Singh is recorded in the court and the statement of accused Sonu and Gurnam Singh, who are in custody, is recorded through V.C.

There is no other litigation or criminal cases are pending between us and complainant. As we have compromised the matter, so on the basis of this compromise, this FIR may please be quashed.

Photo copy of compromise deed is also placed on file as Ex.C1.

In view of the statements, I am of the considered opinion that they have compromised the matter and it seems that the settlement has been genuinely effected and it has been arrived at without any undue influence or pressure. As per parties statement, there is no other person involved in this occurrence and as per statements of the parties, there is no other litigation or criminal cases are pending between the parties. Complainant also

submitted that there is no other person except complainant whose consent is required for the compromise.

Hence, the report is submitted accordingly for its kind perusal.

Thanking you,”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioner 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.

As per the above-reproduced report, there are five accused persons in the present case and the present petition has been filed by four accused and a prayer has been made by counsel for the petitioners as well as the counsel for respondent No. 2 that the FIR be quashed qua the present petitioners.

Learned counsel for the petitioners 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 petitioners 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 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 bring 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 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 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. 71 dated 15.05.2020 under Sections 379-B, 341, 323, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Jalalabad, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioners.

(VIKAS BAHL)
JUDGE

May 16th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No