

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

254

CRM-M-7362-2022 (O&M)
Decided on : 21.04.2022

Sanjeev Kumar @ Sanjeev Sharma

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Saurabh Arora, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Pranav Chadha, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

CRM-13121-2022

Allowed as prayed for.

Annexures P-17 and P-18 are placed on record subject to all
just exceptions.

Main Case

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 59 dated 11.07.2012 under Sections 307, 427, 120-B, 147, 148,
149 of the Indian Penal Code, 1860 and Section 25(54) of the Arms Act
(Section 34 of IPC added later on in challan) registered at Police Station
Phase-8, District SAS Nagar (Annexure P-1) and all subsequent
proceedings arising therefrom on the basis of the compromise.

On 07.04.2022; this Court was pleased to pass the following order:

“CRM-13109-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 28.04.2022 to an early date.

Learned counsel for the applicant-petitioner has submitted that the matter has been compromised qua the present petitioner and the present petitioner has not been attributed any specific injury as per the FIR.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Nitin Jain, Advocate for Mr. Pranav Chadha, Advocate appears on behalf of non-applicant/respondent No.2.

Learned counsel for non-applicant/respondent No.2 has reaffirmed the fact as stated by learned counsel for applicant-petitioner.

Keeping in view the abovesaid facts and circumstances and in view of averments made in the application, the present application is allowed and the date of hearing in the main case is preponed from 28.04.2022 to today and the same is taken on Board today itself.

Main case

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.59 dated 11.07.2012 registered under Sections 307, 427, 120-B, 147, 148, 149 of the Indian Penal Code, 1860, Sections 25 (54) of the Arms Act (Section 34 of IPC has been added later on in challan) at Police Station Phase-8, District SAS Nagar (Annexure P-1) 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. It is further submitted that respondent No.2 has given an affidavit dated 05.04.2022 to the effect that FIR qua the petitioner be quashed and it is further pointed out that the petitioner has not been attributed any injury.

Notice of motion for 21.04.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State of Punjab and Mr. Nitin Jain, Advocate for Mr. Pranav Chadha, 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 Additional District & Sessions Judge, SAS Nagar (Mohali) to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Keeping in view the statements of the complainant/victim and accused, it is submitted that it

appears that the compromise between the Complainant/victim Prabhjit Singh and accused Sanjeev Kumar @ Sanjeev Sharma the FIR No.59 dated 11.07.2012, under Sections 307, 427, 120-B, 34 IPC and Section 25-54-59 Arms Act, Police Station Phase VIII, SAS Nagar, (Mohali) has been effected between them with their own free will, consent and without any pressure and coercion from any side and the same is genuine one. As per the statement of investigating officer, the accused of the present FIR namely Baljit Chaudhary and Sanjeev Kumar have been declared as proclaimed offenders in the present case, however as per the statement of accused Sanjeev Kumar, the order dated 02.03.2019 passed by the court of learned Judicial Magistrate Ist Class, SAS Nagar vide which he was declared as proclaimed offender in the present FIR, has already been set aside by the Hon'ble High Court of Punjab & Haryana at Chandigarh vide order dated 21.02.2022 passed in CRM-M-3646 of 2022. Further as per the statement of investigating officer accused Sanjeev Kumar @ Sanjeev Sharma has not been involved in any other FIR or criminal case.

Copies of statements of the investigating officer ASI Rakesh Kumar, No.265/SAS Nagar, as well as the complainant/victim Prabhjit Singh and accused Sanjeev Kumar @ Sanjeev Sharma and copies of compromise, aadhar cards and copy of order dated 21.02.2022 passed in CRM-M-3646 of 2022 are attached herewith as per directions.

Report is submitted accordingly.

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 said report, it has been observed that the petitioner was not declared as proclaimed offender in the present case.

As per the above-reproduced report, there are four accused persons in the present case and the present petition has been filed by only one accused and a prayer has been made by counsel for the petitioner as well as counsel for the complainant that the FIR be quashed qua the petitioners.

Learned counsel for the petitioner and respondent No. 2 have submitted that in the present case, although Section 307 IPC is made out but as far as the petitioner is concerned, he has not been attributed with any injury and thus, *prima facie*, Section 307 IPC is not made out against the petitioner.

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 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 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. 59 dated 11.07.2012 under Sections 307, 427, 120-B, 147, 148, 149 of the Indian Penal Code, 1860 and Section 25(54) of the Arms Act (Section 34 of IPC added later on in challan) registered at Police Station Phase-8, District SAS Nagar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioner.

(VIKAS BAHL)
JUDGE

April 21st, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No