

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.262

CRM-M-8071-2022

Date of Decision: August 22, 2022

Balwinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Neeraj Madaan, Advocate for the petitioners.

Mr. P.S. Pandher AAG, Punjab.

Mr. Piyush Sharma, Advocate for respondent Nos.2 to 4.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.18, dated 04.03.2016, under Sections 324, 323, 148, 149, 506, 427 of the Indian Penal Code and Section 326 of the IPC, registered at Police Station City Fazilka, District Fazilka, and all other consequential proceedings arising therefrom on the basis of the compromise in the shape of affidavit dated 22.01.2022 (Annexure P-2).

On 24.02.2022, this Court had passed the following order:-

“By filing this petition, quashing of FIR No.18 dated 04.03.2016 registered under Sections 324, 323, 148, 149, 506, 427 IPC and under Section 326 IPC (added later on) at Police Station City Fazilka, District Fazilka and all consequential proceedings arising therefrom has been sought on the basis of compromise.

Notice of motion.

Mr. V.G. Jauhar, Senior DAG, Punjab, accepts notice on behalf of respondent No.1 – State. Mr. Piyush Sharma, Advocate accepts notice on behalf of respondents No.2 to 4.

Parties may appear before concerned trial Court/ Duty Magistrate on 09.03.2022 or on any other date convenient to the

said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with its report:

- i) regarding genuineness and voluntary nature of the compromise*
- ii) Whether the accused/ petitioners are appearing before the Court or are on bail; and*
- iii) Whether any proceeding is pending against the accused/ petitioners.*

Adjourned to 31.05.2022. ”

Pursuant to the aforesaid order, report dated 05.05.2022 has been received from the Chief Judicial Magistrate, Fazilka. The relevant paragraph of the said report is as under:-

“In view of the aforesaid statements, the report as desired by Hon'ble Punjab and Haryana High Court is hereby submitted as follows:-

*(i) The compromise effected between the parties appears to be valid and genuine and result of free will of the parties without any kind of influence or coercion, fraud and misrepresentation. **However it is pertinent to mention that apart from Balwinder Singh, Asha Rani and Manjeet Kaur, there are 4 other persons against whom challan has been presented in the court.***

ii) The accused/petitioners namely Balwinder Singh, Asha Rani and Manjeet Kaur are appearing before the court and are on bail.

(ii) As per the statement of the Investigating Officer, no other criminal proceedings are pending against accused/petitioners Balwinder Singh, Asha Rani and Manjeet Kaur.

Therefore report alongwith copies of the statements of parties and documents as desired by Hon'ble High Court is submitted with a request to put up before Hon'ble Punjab &

Haryana High Court in CRM-M-8071-2022 pending for 31.05.2022.”

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are four accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that no other criminal proceedings have been pending against the accused persons except the FIR in question.

While relying upon the judgment of Hon'ble the Supreme Court in case of ***“Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another”, 2012(12) SCC 401***, learned counsel for the petitioners contends that where there is a partial compromise with some of the accused then also the proceedings against the said accused should be quashed as the same would not even remotely result in conviction of the said accused.

I have heard learned counsel for the parties and have also gone through the case 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 complainants. Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view 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 the above, the petition is allowed and FIR No.18, dated 04.03.2016, under Sections 324, 323, 148, 149, 506, 427 of the

Indian Penal Code and Section 326 of the IPC, registered at Police Station City Fazilka, District Fazilka, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

August 22, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No