

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(255)

CRM-M-7157-2022

Date of decision: - 22.03.2022

Shashank Jain and another

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. B.D. Sharma, Advocate, for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Atul Gaur, Advocate, for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.108 dated 21.06.2018 registered under Sections 420, 506 of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 21.02.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.108 dated 21.06.2018 registered under Sections 420, 506 of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (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 22.03.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Atul Gaur, 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.*

Learned counsel for the petitioners has further submitted that petitioner No.2 is 72 years of age and is residing in Mumbai and because of his old age, he has not been able to travel and to give the statement personally and petitioner No.2 has signed the compromise and thus, prays that petitioner No.2 may kindly be permitted to appear before the trial Court through authorized representative.

The said prayer seems to be genuine one and accordingly, petitioner No.2 is permitted to appear through duly authorized representative.

Learned counsel for the complainant/respondent No.2 has also stated that he has no objection in case, petitioner No.2 is permitted to appear before the trial Court through authorized representative as the matter has been compromised between the parties.”

In pursuance of the said order, the report has been submitted
by the Judicial Magistrate 1st Class, Jalandhar, to the Registrar of this

Court. The relevant part of the report is reproduced hereinbelow:-

“In view of statements given by parties following report is hereby submitted as desired by your goods self:

1. It is respectfully submitted that as per the statement of Investigating Officer, ASI Avtar Singh there are total three persons namely Shashank Jain, Alfred Jacob and Sailesh Singh arrayed as accused in the present FIR. Only two accused namely Shashank Jain and Alred Jacob were arrested in the present FIR and challan against both of them has already been presented before the court. The accused namely Sailesh Singh is yet to be arrested in the present case.

2. It is further respectfully submitted that as per the statement of Investigating Officer, no accused is proclaimed offender in the present FIR.

3. It is further respectfully submitted in view of statements given by complainant Naresh Kumar Sharma, accused Shashank Jain and Harinder Pal Singh Narula, Advocate attorney of accused Alfred Saldanha, this Court is of the considered opinion that compromise effected between complainant Naresh Kumar Sharma, accused Shashank Jain and Alfred Saldanha, is genuine and it is effected voluntarily without any pressure, coercion or undue influence from any quarter. However, this court cannot formed any opinion against accused Sailesh Singh as he has not come present before this court for recording his statement.

4. It is further respectfully submitted that as per the statement of Investigating Officer ASI Avtar Singh, the accused persons are not involved in any other FIR.

5. It is further respectfully submitted that as per the statement of Investigating Officer ASI Avtar Singh, there is only one complainant/victim in the present FIR namely Naresh Sharma.

This report along with statements of parties is submitted, as desired by the Hon'ble High Court vide its order dated 21.02.2022. Submitted please.

Yours faithfully,

(Rajinder Singh Teji, PCS)

*Judicial Magistrate Ist Class,
Jalandhar (UID No. PB00427)"*

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 FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntary and without any coercion or undue influence. Perusal of the report would also show that there are total three accused and only two accused have filed the present petition and one accused is yet to be arrested.

Learned counsel for respondent No.2 has submitted that the matter has been settled fully and respondent No.2 has no objection in case the entire FIR including against accused No.3 be also quashed.

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 FIR No.108 dated 21.06.2018, registered under Sections 420, 506 of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, against all the accused.

March 22, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No