

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.255

CRM-M-6587-2020

Date of Decision: August 22, 2022

Mam Chand @ Monu and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Arshdeep Singh Brar, Advocate for the petitioners.

Mr. P.S. Pandher AAG, Punjab.

Mr. C.S. Jattana, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of DDR No.35, dated 08.04.2016, under Sections 452, 323, 148 and 149 of the Indian Penal Code in FIR No.40, dated 08.04.2016, under Sections 323, 148, 149 of the IPC, registered at Police Station Baghapurana, District Moga, and all other consequential proceedings arising therefrom on the basis of the compromise dated 18.01.2019/23.02.2019 (Annexure P-3).

On 17.02.2020, this Court had passed the following order:-

*“Prayer in this petition is for quashing of the FIR in question on the basis of the compromise entered into between the parties.
Notice of motion.*

At this stage, Mr. Karan Jindal, Advocate puts in appearance on behalf of respondent No. 2/complainant and files his Vakalatnama. He admits to the factum of compromise entered into between the parties.

List again on 14.05.2020.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaq Magistrate 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 in FIR,*
- 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. ”*

Pursuant to the aforesaid order, report dated 18.03.2022 has been received from the Sub Divisional Judicial Magistrate, Baghapurana, District Moga. The relevant paragraph of the said report is as under:-

“It is stated that statement of ASI Rachpal Singh, investigating officer of the present case has been recorded separately. As per his statement, in this case, none of the accused has been declared as proclaimed offender. He further submitted that at that time, no other case was registered against the accused except the present case. In this case, Mali Devi wife of Kishore Kumar complainant is the only victim. It is also submitted that having recorded the statements of the parties and after orally inquired from them, this court is of the considered opinion that compromise effected between the parties is genuine, voluntarily and without any threat or coercion. No other case has been registered against accused except the present case and in this case, FIR was registered only

against five persons and none of the accused is proclaimed offender and Mali Devi wife of Kishore Kumar complainant is the only victim.

Hence, the report is submitted as desired.

Thanking you

Yours faithfully,

*(Pushpinder Singh)PCS
Sub Divisional Judicial Magistrate,
Baghapurana. 16.03.2020.”*

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 five 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 none of the accused is declared as proclaimed offender and no other case has been registered against the accused persons except the FIR in question.

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 DDR No.35, dated 08.04.2016, under Sections 452, 323, 148 and 149 of the Indian Penal Code in FIR No.40, dated 08.04.2016, under Sections 323, 148, 149 of the IPC, registered at Police Station Baghapurana, District

Moga, 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