

259-A

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-6790-2020

Date of decision : 19.05.2022

Gurbarinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. K.S. Bal, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Sourabh Arora, Advocate for respondent Nos.2 to 4.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of DDR No.40 dated 12.06.2017 in FIR No.119 dated 11.06.2017 registered under Sections 323, 324, 148, 149 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station Jandiala, District Amritsar Rural, Amritsar and all the subsequent proceedings arising therefrom on the basis of compromise.

On 14.02.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioners while referring to Annexure P-3 has contended that a compromise has

been effected between the parties and prayed for quashing of cross case bearing DDR No.040 dated 12.06.2017 in FIR No.0119 dated 11.06.2017 registered under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Jandiala, District Amritsar Rural, Amritsar to which Section 326 of the IPC was added lateron and all subsequent proceedings arising therefrom.

Notice of motion.

On the asking of the Court, Mr. Arun Kaundal, DAG, Punjab accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Sourabh Arora, Advocate has appeared and filed his power of attorney on behalf of respondents No.2 to 4 and has admitted the factum of compromise.

Copies of the paper book have been supplied to the learned counsel for the respondents.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 26.02.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing i.e. 20.03.2020 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 case or not.*
- 5. Current stage of the case.*

The trial Court is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

Trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

14.02.2020

Sd/-(ARUN KUMAR TYAGI)

JUDGE ”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“Pursuant to the order dated 14.02.2020 passed by the Hon'ble High Court in CRM-M-6790-2020, report is hereby submitted to the effect that the statements of complainants namely Tarsem Singh, Jaswinder Singh and Davinder Singh @ Kala and accused namely Gurbarinder Singh, Rashpal Singh, Dilawar Singh, Mehtab Singh, Dalbir Singh, Gurdas Singh and Ranjit Singh @ Raja have have been recorded in case bearing FIR No. 119 dated 11.06.2017 (Cross case bearing DDR No.40 dated 12.06.2017), under Sections 323, 324, 326, 148 and 149 of IPC, Police Station Jandiala, Amritsar. This court is satisfied that the parties have made an amicable settlement and have recorded their statements in the court without any pressure, undue influence or coercion. Following is the requisite information, as directed:

I. As per status report obtained from SHO police station Jandiala, Amritsar (which is enclosed herewith for your kind perusal) only seven persons arrayed as accused in the present FIR.

II. That none of the accused person is ever declared proclaimed offender.

III. That the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.

IV. That no accused persons are involved in any other case.

V. That in the present case only FIR has been registered and statements of parties are recorded. No other paper is pending before this Court in this case.

*Sd/-(Nirmala Devi),
Judicial Magistrate Ist Class,
Amritsar UID No PB0411”*

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused 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.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for respondent Nos.2 to 4 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 two 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**”, reported as **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**”, reported as **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 DDR No.40 dated 12.06.2017 in FIR No.119 dated 11.06.2017 registered under Sections 323, 324, 148, 149 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station Jandiala, District Amritsar Rural, Amritsar and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

19.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No