

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8607-2022

Date of decision:06.09.2022

Ishan Sharma

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Naresh Paul Chandel, Advocate for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Ravinder Singh, Advocate for respondent No.2-
complainant.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.124 dated 23.05.2019 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Prevention of Human Smuggling Act, 2012 at Police Station Civil Lines, Patiala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 28.02.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition that has been filed for quashing of FIR and all consequential proceedings arising therefrom, on the basis that a compromise has been entered into between the parties.

Notice of motion for 04.05.2022.

At this stage, Ms. Bhavna Gupta, Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of respondent-State. Mr. Ravinder Singh, Advocate, has caused appearance on behalf of respondent No.2. He admits to

the factum of compromise.

Service is complete.

Now the parties are directed to appear before the learned trial Court/Illaq Magistrate on 04.04.2022 or any other date convenient to the trial Court/Illaq Magistrate, to get recorded their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed i.e. 04.05.2022.

(JAISHREE THAKUR)

28.02.2022

JUDGE”

In pursuance to the said order, a report has been submitted by

Judicial Magistrate 1st Class, Patiala. The relevant portion of the said report is reproduced hereinbelow:-

“From the aforesaid statements of the parties, it apparently appears that the parties have voluntarily entered into the compromise between themselves and have settled the matter amicably and said compromise appears to be genuine. Hence I am sending my aforesaid report as per the directions of Hon'ble Punjab & Haryana High Court. Copies of the statements of the aforesaid persons are also annexed herewith for kind perusal.

Yours faithfully,

Dated: 26.04.2022.

*Gurbhinder Singh Johal, PCS,
Judicial Magistrate 1st Class,
Patiala. (UID No.PB0373)”*

A perusal of the above said report would show that the petitioner and complainant-respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioner has further submitted that the petitioner was not declared proclaimed offender in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioner.

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 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***”, 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.124 dated 23.05.2019 registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Prevention of Human Smuggling Act, 2012 at Police Station Civil Lines, Patiala (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

06.09.2022
Ishwar

(VIKAS BAHL)
JUDGE

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