

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(257)

CRM-M-9303-2022

Date of decision: - 31.03.2022

Baljit Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Amit Dhawan, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Nitika Verma, Advocate
for Mr. Prabhjot Singh Bedi, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.56 dated 27.05.2012, registered under Sections 323, 452, 148, 149, 427, 506 of the Indian Penal Code, 1860, at Police Station Kartarpur, District Jalandhar as well as impugned order dated 18.10.2017 passed by the Judicial Magistrate Ist Class, Jalandhar, whereby the petitioner has been declared as Proclaimed person, on the basis of compromise.

On 04.03.2022, 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.56 dated 27.05.2012 registered under Sections 323, 452, 148, 149, 427, 506 of the Indian Penal Code, 1860 at Police Station Kartarpur, District Jalandhar as well as impugned order dated 18.10.2017 passed by the Judicial Magistrate Ist Class, Jalandhar, whereby the petitioner has been declared as Proclaimed person, on the basis of compromise.

Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise.

Notice of motion for 31.03.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Prabhjot Singh Bedi, Advocate appears on behalf of respondent Nos.2 and 3.

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 petitioner and respondent Nos.2 and 3 have jointly prayed that since, in the present case, matter has been compromised, thus, impugned order dated 18.10.2017 declaring present petitioner as Proclaimed person may kindly be stayed so as to enable him to appear before the trial Court and to give his statement.

In view of the abovesaid joint request made by learned counsel for the petitioner and respondent Nos.2 and 3, the operation of

impugned order dated 18.10.2017 is stayed till the next date of hearing.

(VIKAS BAHL)

04.03.2022

JUDGE”

In pursuance of the said order, the report has been submitted by the Civil Judge (Junior Division), Jalandhar, to the Registrar of this Court. The relevant part of the report is reproduced hereinbelow:-

“The compliance report as desired by Hon'ble High Court is as following:

1. In this case FIR no. 56 dated 27.05.2012 U/S 323, 452, 148, 149, 427, 5506 IPC of PS, Kartarpur was lodged on the complaint of Iqbal Singh son of Sansar Singh R/o Singh Pur, PS Kartarpur, Jalandhar. The FIR was lodged against 08 accused persons namely:

- (I) Harbhajan Singh son of Chanan Singh.*
- (II) Rajinder Singh son of Sardul Singh,*
- (III) Amritpal Singh son of Harbhajan Singh,*
- (IV) Baljit Singh son of Rajinder Singh,*
- (V) Harnek Singh son of Jaswinder Singh,*
- (VI) Amritpal Singh son of Ranjit Singh,*
- (VII) Jaswinder Singh son of Sardul Singh,*
- (VIII) Gagandeep Singh son of Avtar Singh*

2. In this case applicant Baljit Singh (applicant/petitioner) and accused Harnek Singh were declared proclaimed offender by the Court. Now only accused Harnek Singh is still proclaimed offender in this case.

3. The compromise between the complainant and applicant is genuine, voluntarily and without any coercion or undue influence.

4. As per the statement of SI Rakesh Kumar, SHO PS Bhogpur Jalandhar (recorded on 25.03.2022) no other FIR is pending against the accused Baljit Singh and Harnek Singh.

5. As per the statement of SI Sahil Chowdhary SHO PS Kartarpur, Jalandhar (recorded on 25.03.2022), apart from the complainant namely Iqbal Singh and injured Ranjit Singh there is no

any other complainant or injured/victim this case.

The compliance report alongwith statements parties recorded by undersigned is submitted herewith for onward transmission to Hon'ble Punjab and Haryana High Court, Chandigarh.

Please find enclosed herewith:

- (a). Statement of Harjit Singh son of Satpal Singh R/o village SinghPur, attorney holder of complainant Iqbal Singh Attwal son Sansar Singh,*
- (b). Statement of Ranjit Singh son of Dilbag Singh (injured).*
- (c). Statement of Baljit Singh son of Rajinder Singh (accused).*
- (d). Statement of Sahil Chowdhary SHO Kartarpur, Jalandhar,*
- (e). Statement of Rakesh Kumar SHO PS Bhogpur, Jalandhar,*
- (f). Copy of compromise deed (Ex.P-1),*
- (g). Copy of order dated 12.02.2021 passed by the Court of JMIC, Jalandhar (ExP-2),*
- (h). Copy of power of attorney of complainant Iqbal Singh Attwal in favour of Harjit Singh Attwal son of Sh. Satpal Singh (Ex.P-3),*
- (i). Copy of Adhar Card of Harjit Singh (Ex.P-4).*
- (j). Copy of Copy of Adhar Card of Ranjit Singh (Ex.P-5),*
- (k). Copy of Adhar Card of Baljit Singh Attwal (Ex.P-6),*
- (l). Report dated 25.03.2022 sent by PS Bhogpur, District Jalandhar regarding service of ASI Sukhjit Singh belt no. 2424 (now no. 158) alongwith copy of FIR No. 0143 dated 2021,*
- (m). Copy of order dated 18.02.2022 passed by Hon'ble Punjab and Haryana High Court in CRM-M-6789-2022*

Report submitted for your kind perusal and necessary action.

Submitted please.

Yours faithfully

(Karanvir Singh Maju, PCS),

Judicial Magistrate 1st Class,

Jalandhar”

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 pressure. A perusal of the report would further show that there are other co-accused, who have not filed the petition for quashing of FIR.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **'Dalip Mandal and another Vs. State of U.T., Chandigarh and others'**, in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.56 dated 27.05.2012 registered under Sections 323, 452, 148, 149, 427, 506 of the Indian Penal Code, 1860 at Police Station Kartarpur, District Jalandhar as well as impugned order dated 18.10.2017 passed by the Judicial Magistrate Ist Class, Jalandhar, whereby the petitioner has been declared as Proclaimed person and all the subsequent proceedings emanating therefrom, are ordered to be quashed/set aside, qua the petitioner.

March 31, 2022
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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No