

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

314

CRM M-10148 of 2021 (O&M)
Date of Decision: July 26, 2022

Gursimranjit Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Baljeet Singh Sidhu, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Manna Singh, Advocate
for respondents No. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.189 dated 08.05.2018 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Shimlapuri, District Ludhiana, Punjab (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 04.03.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Case is being taken up for hearing through VideoConferencing due to Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.189 dated 08.05.2018, registered under Sections 406 and 420 IPC at Police Station Shimlapuri, District Ludhiana along with all consequential proceedings emanating therefrom, on the basis of compromise, Annexure

*P/2 dated 18.01.2021 as well as the decision of Hon'ble the Full Bench of this Court in **Kulwinder Singh and Others v. State of Punjab and another, 2007 (3) RCR (Crl.) 1052** besides decision in case titled as **Sharanjeet Singh v. State of Punjab, 2004 (2) RCR (Crl.) 71.***

Notice of motion.

Mr. Hittan Nehra, Addl. A.G., Punjab, accepts notice on behalf of respondent No. 1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P/2 dated 18.01.2021 as well as the judgments cited by learned counsel for the petitioner.

Mr. Manna Singh, learned counsel accepts notice and puts in appearance on behalf of respondent Nos.2 & 3 and states that he has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise, Annexure P/2 dated 18.01.2021 as well as the judgments cited by learned counsel for the petitioner.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned for recording of their statements in terms of compromise Annexure P/2 dated 18.01.2021 on 17.03.2021 or any other date thereafter, convenient to the learned Illaqa Magistrate/ Duty Magistrate concerned.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been

filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 20.04.2021.

Reply, if any, be filed in the meantime.”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate 1st Class, Ludhiana. The relevant portion of the said report is reproduced hereinbelow:-

“Accordingly, the statements of the complainant/respondent Jatinder Singh son of Ajmer Singh R/o Village Bhattian, Police Station Sadar Khanna and District Ludhiana and witness/respondent Baljit Singh son of Sukhwant Singh R/O village Ghaloti, Tehsil Payal and District Ludhiana and petitioner/accused namely Gursimranjit Singh aged about 23 years son of Gurjit Singh R/O 265, Near Thakur Duara, Village Phull, District Bathinda, Punjab, have been recorded. In their separate statements, both the parties admitted the genuineness of the compromise arising between them. Both the parties have been identified by their respective learned Counsel. So, from the statements of the parties, it appears to the court that the parties have been compromised the matter out of their free Will, voluntarily, without any sort of pressure, coercion and fear.

As per contents of the FIR as well as statement of the concerned police official, except the petitioner/accused namely Gursimranjit Singh, no other person has been nominated as accused in the present FIR and accused Gursimranjit Singh has not been declared as proclaimed

offender and challan against him has not been presented till date.

As per contents of the FIR as well as statement of the concerned police official, except the present FIR, there is no cross-case registered or pending between the parties. The statement of the complainant alongwith the statement of accused are being sent with this report for your's Honours kind perusal.

*Yours faithfully,
(Palwinder Singh)
Judicial Magistrate 1st Class,
Ludhiana
UID Code:PB-0413”*

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

Learned counsel for respondent No.2 and 3 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 FIR No. 189 dated 08.05.2018 registered under Sections under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Shimlapuri, District Ludhiana and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

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

July 26, 2022

amit rana

(VIKAS BAHL)

JUDGE

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