IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CRM-M-10116-2022
Date of decision : 02.05.2022

Sukhjinder Kaur and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.B.S.Sidhu, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.Gurmeet Singh Saini, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a second petition under Section 482 Cr.P.C. praying for quashing of cross case DDR no.25 dated 22.09.2020 registered under Sections 452, 323, 148, 149 IPC at Police Station Ghall Khurd, District Ferozepur in FIR no.96 dated 20.09.2021 registered under Sections 452, 323, 506, 148, 149 IPC (Section 307 IPC and Sections 25, 27, 54, 59 of Arms Act added later on) at Police Station Ghall Khurd, District Ferozepur and all other consequential proceedings arising therefrom on the basis of compromise.

On 06.04.2022, this Court was pleased to pass the following order:-

"This is second petition filed under Section 482 Cr.P.C. for quashing of cross-case DDR No.25 dated 22.09.2020 registered

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under Sections 452, 323, 148, 149 of the Indian Penal Code,1860 at Police Station Ghall Khurd, District Ferozepur (Annexure P-2) in FIR No.96 dated 20.09.2021 registered under Sections 452, 323, 506, 148 and 149 of IPC (Section 307 of IPC and Sections 25/27/54/59 of the Arms Act have been added later on) at Police Station Ghall Khurd, District Ferozepur and all the subsequent proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 02.05.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Gurmeet Singh Saini, Advocate respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 2 weeks.

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.

To be heard alongwith CRM-M-10088-2022.

(VIKAS BAHL)
06.04.2022 ***JUDGE"***

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

"It is furthermore, respectfully submitted that:-

(i) In the present case, as per statement of ASI Jaspal Singh No. 893/Fzr PS Ghall Khurd IO of the present case (1) Sukhjinder Kaur wife of Sh. Santokh Singh, 2. Santokh Singh son of Sh.

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Karnail Singh, 3) Naib Singh son of Sh. Kamikar Singh, 4. Chamkaur Singh son of Sh. Jang Singh 5. Rajdeep Kaur wife of Sh. Chamkar singh, 6. Bachhitar Singh son of Sh. Pritam singh 7. Gurbhej Singh son of Sh. Bachhitar singh 8. Manveer Singh son of Sh. Gurbhej Singh 9. Talwinder Pal Kaur wife of Sh. Gurbhej Singh 10. Sukhpreet Kaur wife of Sh. Sukhvir Singh 11. Sukhvir Singh son of Avtar Singh 12. Sukhveer Kaur wife of Sh. Naib Singh 13. Jasvir Kaur wife of Sh. Nirmal Singh are only accused in the present DDR As per above statement of I.O, no other person has been arrayed as accused in the present DDR.

(ii) As per statement of I.O of this case, accused persons namely (1) Sukhjinder Kaur wife of Sh. Santokh Singh, 2. Santokh Singh son of Sh. Karnail Singh, 3) Naib Singh son of Sh. Kamikar Singh, 4. Chamkaur Singh son of Sh.Jang Singh 5. Rajdeep Kaur wife of Sh. Chamkar singh, 6. Bachhitar Singh son of Sh. Pritam singh 7. Gurbhej Singh son of Sh. Bachhitar singh 8. Manveer Singh son of Sh. Gurbhej singh 9. Talwinder Pal Kaur wife of Sh. Gurbhej Singh 10. Sukhpreet Kaur wife of Sh. Sukhvir Singh 11. Sukhvir Singh son of Avtar Singh 12. Sukhveer Kaur wife of Sh. Naib Singh 13. Jasvir Kaur wife of Sh.Nirmal singh have never declared as proclaimed offender.

(iii) As per statement of IO of this case, the compromise has been effected between the parties, is genuine, voluntary and without any coercion or undue influence.

(iv) As per statement of IO of this case, the above mentioned accused / petitioners are not facing trial in any other criminal case nor any other FIR has been registered against above said accused/ petitioners except the present one.

(v) As per the present DDR and statement of IO, there are only one complainant/ respondent namely Kamaljeet Kaur in the present DDR.

As per above statements of parties, compromise has been effected between petitioner (1) Sukhjinder Kaur wife of Sh. Santokh Singh, 2. Santokh Singh son of Sh. Karnail Singh, 3) Naib Singh son of Sh. Kamikar Singh, 4. Chamkaur Singh son of Sh. Jang Singh 5. Rajdeep Kaur wife of Sh. Chamkar singh, 6. Bachhitar Singh son of Sh. Pritam singh 7. Gurbhej Singh son of Sh. Bachhitar singh 8. Manveer Singh son of Sh. Gurbhej singh 9. Talwinder Pal Kaur wife of Sh. Gurbhej Singh 10. Sukhpreet Kaur wife of Sh. Sukhvir Singh 11. Sukhvir Singh son of Avtar Singh 12.

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Sukhveer Kaur wife of Sh. Naib Singh 13. Jasvir Kaur wife of Sh. Nirmal Singh. This compromise is acceptable to both the respective parties. Therefore, this compromise is genuine, Voluntary and without any coercion or undue influence.

Hence, my report, Hon'ble Sir.

Please find enclosed herewith

Statements of parties.

Statement of ASI Jaspal Singh, Investigating officer.

Yours faithfully,

(Gagandeep Singh Kainth 'PCS')
Judicial Magistrate 1st Class,
Ferozepur.
Unique Identity Code: PBO658
Dated: 21/April/2022. ”

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

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offenders in the present case.

Learned State counsel has submitted that the said fact is correct and stated that he has no objection in case the FIR is quashed on the basis of compromise.

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 petitioners

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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 cross case DDR no.25 dated 22.09.2020 registered under Sections 452, 323, 148, 149 IPC at Police Station Ghall Khurd, District Ferozepur in FIR no.96 dated 20.09.2021 registered under Sections 452,

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323, 506, 148, 149 IPC (Section 307 IPC and Sections 25, 27, 54, 59 of Arms Act added later on) at Police Station Ghall Khurd, District Ferozepur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

May 02, 2022.
Davinder Kumar

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

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