

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258

CRM-M-10556-2022
Decided on : 07.04.2022

Rohit Kapila and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. G. S. Nagpal, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Sachin Kalia, Advocate
for respondents No. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 3 dated 03.01.2013 under Sections 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 registered at Police Station Focal Point, District Ludhiana (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 14.03.2022, 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.3 dated 03.01.2013 registered under Sections 465, 467, 468, 471, 120-B of

the Indian Penal Code, 1860 at Police Station Focal Point, District Ludhiana (Annexure P-1) 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 07.04.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Sachin Kalia, 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 two 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.”*

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

“As desired, the report is as follows:

- 1. As per FIR and report of concerned Ahlmad and statement of Investigating Officer, there are three persons i.e. petitioners arrayed as accused.*
- 2. As per statement of Investigating Officer and as per record available with judicial file, none of the accused persons have been declared proclaimed offender at any stage of the case.*
- 3. From the statement of the parties and written compromise entered there into i.e. Mark -A, it appears to the court that the compromise appears to be genuine, voluntary and without any coercion of undue influence.*
- 4. As per statement of Investigating Officer and as per record available with judicial file and as per report of concerned SHO, none the accused persons have been involved in any other FIR except Rohit Kapila in **FIR no.11 dated 4.12.2012 under Section 420, 467, 468, 471, 120-B of IPC and Section 13-D, 13 (2) of PC Act, PS Vigilance.***
- 5. As per statement of Investigating Officer and as per record available with judicial file, the complaint has been registered by Santosh Sood and Anju Rani.*

The requisite report is accordingly submitted please, for onward transmission to the Hon'ble High Court. Photocopies of the statements so recorded are enclosed herewith, for kind perusal, please.

Thanking you.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioners 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. Merely the fact that one of the petitioners is involved in one more case will not come in way of quashing of the present FIR on the basis of compromise.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that these facts are correct.

Learned counsel for respondent Nos. 2 and 3 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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 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, the petition is allowed and FIR No. 3 dated 03.01.2013 under Sections 465, 467, 468, 471 and 120-B of the Indian Penal Code,1860 registered at Police Station Focal Point, District Ludhiana (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

April 7th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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