

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(265)

CRM-M-10599-2022

Date of decision: - 12.05.2022

Puneet Marwaha and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gurditt Singh Saini, Advocate, for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Gagandeep Singh Simble, Advocate,
for respondents No.2 to 4.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.119 dated 13.07.2018 registered under Section 420 of the Indian Penal Code, 1860 read with Sections 4, 11, 12, 76 of the Chit Funds Act, 1982 at Police Station City Batala, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 21.04.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioners has submitted that in pursuance of the order dated 14.03.2022, the parties could not appear before the trial Court and seeks one more opportunity for the parties to appear before the trial Court and record their statements.

The parties are again directed to appear before the Illaqa

Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.*

Adjourned to 12.05.2022.

The statements of the parties be recorded subject to cost of Rs. 5,000/- to be deposited by the petitioners with the High Court Lawyers' Welfare Fund. The said amount would be deposited prior to giving the statements of the parties and the trial Court would only permit them to record their statements after the petitioners show the receipt of the same.

In case, the cost of Rs.5,000/- is not deposited by the petitioners with the High Court Lawyers' Welfare Fund, then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

21.04.2022”

In pursuance of the said order, the report has been submitted by the Sub-Divisional Judicial Magistrate, Batala to the Registrar (General) of this Court. The relevant part of the report is reproduced hereinbelow:-

“In compliance to the aforesaid order dated 21.04.2022, of the Hon'ble Punjab and Haryana High Court, it is respectfully submitted that the report of the undersigned is as follows:

- i) That, as per statement of ASI Rashpal Singh, No.3081/Btl, PS City Batala, investigation office, three persons namely Puneet Marwaha S/o Ashok Marwaha, Rajan Verma s/o Vishawa Mittar Verma*

and Sumit Kumar Verma S/oo Rakesh Kumar have been arrayed as accused in the said FIR.

ii) That, as per statement of ASI Rashpal Singh, No.3081/B, PS City Batala, investigation officer, in the present FIR, neither the accused have been declared as proclaimed person/ offender nor any P.O proceeding were pending against them.

iii) In view of the statements suffered by both the parties, this Court is satisfied that the compromise effected between the parties is genuine, voluntary and has been arrived at between the parties without any pressure, threat or coercion.

iv) That, as per statement of ASI Rashpal Singh, No.3081/Bt, PS City Batala, investigation officer, no other FIR was registered against above named accused at P.S. City Batala, Police District Batala, District Gurdaspur

v) That, as per statement of ASI Rashpal Singh, No.3081/Bil, PS City Batala, investigation officer, apart from complainants/ respondent no. 2 to 4 namely Ramnish Kumar S/o Hakumat Rai, Rajiv Kumar S/o Hakumat Rai and Chandan Mahendru S/o Ramnesh Mahendru, there is no other victims/ complainants in the present FIR.

As such, report is submitted accordingly along with the statements of the parties, for the kind perusal of your Goodself.

Submitted please.

Yours faithfully,

(Vineeta Luthra)

Sub-Divisional Judicial Magistrate,

Batala, District Gurdaspur.

(UID No. PB0349)."

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 coercion or undue influence.

Learned counsel for the petitioners has submitted that the

petitioners have deposited the cost of Rs.5,000/-, vide receipt No.2647 dated 25.04.2022, in pursuance of order dated 21.04.2022.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.2 to 4 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 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, this petition is allowed and FIR No.119 dated 13.07.2018 registered under Section 420 of the Indian Penal Code, 1860 read with Sections 4, 11, 12, 76 of the Chit Funds Act, 1982 at Police Station City Batala, District Gurdaspur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

May 12, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No