

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

253

CRM-M-8621-2020
Decided on : 08.07.2022

Sarabjit Singh @ Sabbi

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Piyush Sharma, Advocate for
Mr. Varun Sharma, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Neeraj Madaan, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 53 dated 12.07.2018 under Sections 420, 465, 467, 468 and 120-B of the Indian Penal Code, 1860 registered at Police Station Satnampura, Phagwara, District Kapurthala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 28.02.2020, a coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition for quashing of FIR on the basis of compromise.

Notice of motion.

At the asking of the Court, Ms. Amarjit Kaur Khurana, DAG, Punjab, accepts notice on behalf of respondent No.1–State and Sh.Neeraj Madaan, Advocate has appeared on behalf of respondent No.2 by filing memo of appearance.

He states that the matter has been compromised between the parties.

It is stated that the matter is still being investigated and challan has not yet been filed.

Under the circumstances, the parties are directed to appear before learned Illaqa Magistrate within one month from today and the Illaqa Magistrate is to record the statements of the affected persons i.e. complainant and accused and then to report whether the parties have entered into compromise voluntarily without any threat or coercion. The Illaqa Magistrate is also to report whether any of the parties has been declared as proclaimed offenders.

Report be submitted to this Court by the next date of hearing fixed as 07.05.2020.

The State counsel shall also get the genuineness of the compromise verified and inform the Court in that regard.

28.02.2020
*Sd/-
(H. S. MADAAN)
JUDGE"*

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

"It is humbly submitted in terms of the order dated 28.02.2020, passed by Hon'ble Punjab & Haryana High Court in CRM-M-8621-2020 that:

1. Complainant/respondent No.2 Harish

Chander Sharma and accused/petitioner Sarabjit Singh @ Sabbi have appeared before the undersigned.

- 2. Complainant Harish Chander Sharma has a suffered statement to the effect that he has compromised the matter with accused without any pressure, coercion and with free consent. He has no objection if the FIR is quashed against accused Sarabjit Singh. He also given his affidavit regarding this fact and original affidavit is in the Hon'ble High Court and copy of said affidavit proved as mark-A.*
- 3. Statement of accused Sarabjit Singh @ Sabbi was also recorded, who suffered a statement on the similar lines.*

This court is satisfied that compromise between the parties has been effected voluntarily without any threat or coercion. It is also humbly submitted that as per report of the Ahlmad of this Court as well as statement of I.O., no accused has been declared proclaimed offender in this case. The original statements are annexed herewith for kind perusal of your goodself and necessary action, please. The report is hereby submitted accordingly.

Thanking You,"

A perusal of the above report would show that it has been stated that the statements of the complainant as well as the petitioner have been recorded in the case and they 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 as well as respondent No. 2-complainant have submitted that there were 3 accused in the present case out of which one accused namely Jaswant Singh has died and the third accused namely Harnek Singh Talwar @ Mintu has already filed a petitioner under Section 482 Cr.P.C. for quashing of the FIR on the basis of the compromise and the same has been allowed vide order dated 24.02.2020 by a coordinate Bench of this Court in CRM-M-43876-2019.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and is not involved in any other case.

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

Learned counsel for respondent No. 2-complainant 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 as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioner and the complainant and the present FIR having been compromised deserves to be quashed. 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. 53 dated 12.07.2018 under Sections 420, 465, 467, 468 and 120-B of the Indian Penal Code, 1860 registered at Police Station Satnampura, District Kapurthala (Annexure P-1) and all subsequent

proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioner.

July 8th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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