

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

264

CRM-M-11672-2022
Decided on : 25.04.2022

Kartik and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Vikas Gupta, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vikasdeep Singh, Advocate
for respondent No. 2 .

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 221 dated 18.07.2018 under Sections 323, 324, 341, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 22.03.2022; this Court was pleased to pass the following order:

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.221 dated 18.07.2018 registered under Sections 323/324/341/148/149 of the Indian Penal Code, 1860 at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1) and all the subsequent

proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that in the present case, there are total seven accused persons, out of which, five accused persons have approached this Court by way of filing the present petition for quashing of FIR on the basis of compromise and thus, submits that the present case is a case of partial compromise and has relied upon the judgment passed by the Hon'ble Supreme Court in Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012(12) SCC 401.

Notice of motion for 25.04.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Vikasdeep Singh, Advocate appears on behalf of 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 15 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.”*

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

“(i) As per statement of investigating officer, seven persons namely Kunal Sahota son of Parshotam, resident of Rishi Nagar, Sultanpur Lodhi, Kartik son of Raj Kumar, Naveen @ Naveen Sahota son of Sunil Kumar @ Gaggu. Sunny Sarharwal Honny Kumar son of Surjitpal, residents of Mohalla Saidan, Sultanpur Ladhi, Kapurthala, Kashish Kashish Hays son of Pawan Hansa Pamma, resident of Mohalla Rishi Nagar, Sultanpur Lodhi, Kapurthala, Sukhwinder Singh @ Gazzi son of Charanjit Singh. resident of village Gazipur. Tehsil Sultanpur Lodhi, Kapurthala, and Arun Kumar son of Tilak Raj, resident of Near Gurudwara Hut Sahib, Sultanpur Lodhi, District Kapurthala, have been arrayed as accused in the present FIR

(ii) As per statement of investigating officer, none of the petitioners/accused have been declared as proclaimed person nor any other proceedings is pending in the present case against petitioners/accused.

(iii) In the light of statements suffered by appearing parties, appears that appearing parties have effected compromise which is genuine voluntary and out of free will and is not the result of any threat, pressure or undue influence etc, in any manner.

(iv) As per statement of investigating officer, petitioner accused Kartik son of Raj Kumar is involved in FIR No.383 dated 13.12.2017, under Section 326/307/34 1PC, PS Sultanpur Lodhi. Petitioners accused Naveen ja Naveen Sahota son of Sunil Kumar, Sunny Sarharwal @

Honny Kumar son of Surjitpal, Kashish Kushish Hans and Arun Kumar son of Tilak Raj are not involved in any other case.

(v) As per statement of investigating officer, one person namely Karan Dhit son of Madan Mohan, resident of Mohalla Diwana, Sultanpur Lodhi, Districi Kapurthala, is the only aggrieved complainant in the present case.

Certified copies of statements of appearing parties, recorded in this Court, are being sent herewith through the office of Ld District & Sessions Judge, Kapurthala. The report is accordingly submitted before the Hon'ble High Court 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.

As per the above-reproduced report, there are seven accused persons in the present case and the present petition has been filed by five accused and a prayer has been made by counsel for the petitioners as well as counsel for the complainant that the FIR be quashed qua the petitioners.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as 2012 (12) SCC 401, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused

should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2018 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 bring 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 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. 221 dated 18.07.2018 under Sections 323, 324, 341, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioners.

(VIKAS BAHL)
JUDGE

April 25th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No