

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

269

CRM-M-12024-2022
Decided on : 19.05.2022

Mohammad Arif and another

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Saqib Ali Khan, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. Prashant Vashisht, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 15 dated 30.01.2022 under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City-II, Malerkotla, District Malerkotla (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 20.04.2022, this Court was pleased to pass the following order:

“Learned counsel for the petitioner has submitted that in pursuance of the order dated 22.03.2022, 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 15 days.

The parties are 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 19.05.2022.

The statements of the parties be recorded subject to cost of Rs. 5,000/- to be deposited by the petitioners with the Punjab and Haryana High Court Employees' Welfare Association 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 Punjab and Haryana High Court Employees' Welfare Association Fund, then the present petition would be deemed to have been dismissed.”

Learned counsel for the petitioners has submitted that in pursuance of the above order, an amount of Rs.5,000/- has been deposited with the Punjab and Haryana High Court Employees' Welfare Fund vide receipt No. 962 dated 25.04.2022.

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

“Report is submitted specifying the following:

- 1. As per FIR, two persons namely Mohammad Atif and Mohd. Khalid arrayed as accused by name and six unknown persons also arrayed as accused.*
- 2. As per statements of accused and I.O., accused have never been declared proclaimed offenders.*
- 3. The compromise is valid, genuine, voluntarily and without any coercion and undue influence in view of statement of complainant and accused.*
- 4. As per statements of accused and L.O., accused persons are not involved in any other FIR except the present FIR.*
- 5. As per statement of I.O., complainant Mohd. Atif alongwith injured Mohd. Anees are victims.*

Submitted please.”

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, in addition to the present petitioners, there are 6 unknown persons who have been arrayed as an accused in the present case but the compromise has been effected with the present petitioners and a prayer has been made by counsel for the petitioners as well as the counsel for respondent Nos. 2 and 3 that the FIR be quashed qua the present 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 Nos. 2 and 3 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. 15 dated 30.01.2022 under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City-II, Malerkotla, District Malerkotla (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

May 19th, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No