

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CRM-M-13422-2021
Decided on : 02.06.2022

Kulwinder Kaur and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Angel Walia, Advocate
for the petitioners.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. Sourabh Arora, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 29 dated 18.02.2017 under Sections 452, 365, 511, 323 and 34 of the Indian Penal Code, 1860 registered at Police Station Jandiala, District Amritsar (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 23.03.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition for quashing of FIR on the basis that a compromise has been entered into between the parties.

Notice of motion for 25.05.2021.

At this stage, Ms. Rashmi Attri, AAG Punjab, who is appearing through the medium of video conferencing, accepts notice on behalf of respondent No.1-State. Similarly, Mr. Sourabh

Arora, Advocate accepts notice on behalf of complainant/respondent No.2 and admits to the factum of compromise.

Service is complete.

In the meantime, the parties are directed to appear before the learned trial Court/Illaqa Magistrate on 23.04.2021 or any other date convenient to the trial court/Illaqa Magistrate, to get recorded their statements regarding compromise and after recording their statements, learned trial court/Illaqa Magistrate, is directed to send the report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed i.e. 25.05.2021.

A copy of this order be sent to learned trial Court/Illaqa Magistrate through fax for compliance. ”

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

“After a careful perusal of the statement of Constable Sukhvinder Singh, the statement of the accused Baldev Singh and the complainant Kulwinder Kaur and the statement of complainant Jaspal Singh already recorded in the court on 05/04/2021, I am of the view that:

- 1. The compromise between the parties is genuine.*
- 2. No PO proceedings are pending against any of the party in this case.*

The report is accordingly submitted for the kind perusal of the Hon'ble High Court."

A perusal of the above report would show that by mistake, Kulwinder Kaur has been stated to be a complainant whereas, she is an accused and is petitioner No. 1. It has further 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 the petitioner is involved in other cases also, would not come in the way of quashing of the present FIR on the basis of compromise.

As per the FIR, there are three accused in the present case but the present petition has been filed by two accused only i.e. the present petitioners and the compromise has been effected with them and a prayer has been made by counsel for the petitioner as well as the counsel for respondent No. 2 that the FIR be quashed qua the present petitioner.

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 with the petitioners 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 petitioner 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. 29 dated 18.02.2017 under Sections 452, 365, 511, 323 and 34 of the Indian Penal Code,1860 registered at Police Station Jandiala, District Amritsar (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

June 2nd, 2022
Mehak

(VIKAS BAHL)
JUDGE

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