

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

283

CRM-M-12470-2022
Decided on : 23.05.2022

Sunil Kumar Arora @ Sunil Kumar and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr.Yogesh Goel, Advocate and
Mr. Nayandeep Rana, Advocate
for the petitioners.

Mr. Sukhbeer Singh, A.A.G., Punjab.

Mr. Vipul, Advocate
for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 208 dated 02.09.2017 under Sections 420, 467, 468, 471, and
120-B of the Indian Penal Code, 1860 registered at Police Station
Division No.5, District Ludhiana (Annexure P-1) and all subsequent
proceedings arising therefrom on the basis of the compromise.

On 24.03.2022, a Coordinate Bench of this Court was
pleased to pass the following order:

*“Prayer in this petition under Section 482 of the the
Code of Criminal Procedure, 1973 is for quashing of FIR
No.208 dated 02.09.2017 registered under Sections 420, 467,
468, 471 and 120-B of the Indian Penal Code, 1860 in Police
Station Division No. 5., District Ludhiana*

with all consequential proceedings arising therefrom in view of the compromise (Annexure P-2) arrived at between the parties.

Notice of motion.

Mr. V.G.Jauhar, Senior DAG, Punjab accepts notice on behalf of the respondent No. 1-State. Mr. Vipul, Advocate puts in appearance on behalf of complainant/respondent No.2 and filed his power of attorney which is taken on record.

Learned Counsel for complainant/respondent No. 2 admits the factum of compromise effected between the parties.

Since the parties have moved this Court for quashing of the FIR on the basis of the compromise, they are directed to appear before trial Court/Illaq Magistrate on 01.04.2022 for recording their statements with regard to the genuineness and authenticity of compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing i.e. 23.05.2022 containing the following information:-

- 1. Number of persons arrayed as accused in FIR.*
- 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 case or not.*
- 5. Whether all the parties named in the FIR have made their statement regarding the Compromise.*
- 6. Current stage of the case. Report of the Illaq Magistrate/trial Court be awaited for the date fixed.*

24.03.2022
Sd/-
(SANT PARKASH)
JUDGE”

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

“4. Upon perusal of above statements and documents available on record, this court submits requisite report as under:

- i) Only three accused persons namely Sunil Kumar Arora @Sunil Kumar, Raman Sharma and Chander Kanta have been arrayed in the instant FIR*
- ii) None of the accused has been declared proclaimed offender. However, accused Chander Kanta became absent, from the court on last date of hearing i.e. 23.2.2022 and notice has been ordered to be issued to her for 8.4.2022*
- iii) Compromise effected between the complainant Raghav Singla and two accused persons namely Sunil Kumar Arora @Sunil Kumar and Raman Sharma is genuine, voluntary and without any coercion or undue influence.*
- iv) Accused Sunil Kumar Arora @ Sunil Kumar and Raman Sharma are not involved in any other case.*
- v) All the parties named in the FIR, except one accused namely Chander Kanta, have made their statements regarding the compromise.*
- vi) Challan has been presented in this case and after framing of charge matter is pending at the stage of prosecution evidence but on last date of hearing i.e. 23.2.2022 accused Chander Kanta became absent and notice has been ordered to be*

issued to her for 8.4.2022. In this case two witnesses including complainant Raghav Singla have been examined by this court.

4. Above referred documents and statements are enclosed herewith for kind consideration of the Hon'ble High Court. Hence, this report of compliance of order dated 24.3.2022 is hereby submitted for kind consideration and for further necessary orders, if any."

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 complainants have been made voluntarily without any fear, coercion or pressure.

As per the above-reproduced report, there are 3 accused in the present case but the compromise has been effected with two accused i.e. the present petitioners and a prayer has been made by counsel for the petitioners as well as the counsel for respondent No.2 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 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. 208 dated 02.09.2017 under Sections 420, 467, 468, 471, and 120-B of the Indian Penal Code, 1860 registered at Police Station Division No.5, District Ludhiana (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 23rd, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No