

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-13463-2022(O&M)

Date of decision : 26.04.2022

Balwinder Singh @ Babbu

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Jashan Mehta, Advocate for
Mr.Harinder Pal Singh Ishar, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Ms.Kuljeet Kaur, Advocate
for complainant-respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.63 dated 11.05.2020 registered under Sections 452, 323, 506 read with Section 34 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Cheema, District Sangrur and all other consequential proceedings arising therefrom on the basis of compromise.

On 31.03.2022, 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.63 dated 11.05.2020 registered under Sections 452, 323, 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3(1)(x) of the SC and ST (Prevention of Atrocities) Act, 1989 at Police Station Cheema, District Sangrur (Annexure P-1)

and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise.

Notice of motion for 26.04.2022.

On asking of the Court, Mr. V.G. Jauhar, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State.

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.*

31.03.2022

**(VIKAS BAHL)
JUDGE"**

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

"In this connection, the parties have appeared before the court for getting their statements recorded regarding the compromise. Statement of complainants Gurmeet Kaur and Balvir Singh has been recorded, whereby, they consistently stated that they have arrived at a compromise in the present case FIR with accused Balwinder Singh @ Babbu only as per compromise dated 22.03.2022 out of their free will, without any inducement, threat, promise or coercion from any corner with the intervention of the respectables and have no objection if the present case FIR is quashed against accused Balwinder Singh @ Babbu only. Similarly, accused Balwinder Singh @ Babbu has also suffered his

statement that he has effected compromise with the complainants in the present FIR as per compromise dated 22.03.2022, with his free consent, without any coercion or influence with the intervention of the respectables.

The undersigned has carefully gone through the statements got recorded by the complainant and the accused. Ex-facie, it transpires from the statements of the parties (recorded before the undersigned) that they have arrived at compromise with their free volition, without any inducement, threat, promise, coercion or undue influence from any quarter. Apparently, the compromise has been genuinely arrived at to eliminate bitterness and acrimony between the parties and in order to restore cordial relations. Besides this, the parties have been duly identified by their counsels.

The statement of SI Rajwant Kumar, Investigating Officer has also been recorded, who stated that the present case was registered on the statement of complainants Gurmeet Kaur and Balvir Singh against two accused persons namely Balwinder Singh @ Babbu and Jagga Singh only. No other accused is involved in the present FIR. There is no any other complainant or affected/aggrieved party in the present case. No accused has been declared as proclaimed offender in the present case. ”

A perusal of the above said report would show that although as per the petition, one complainant Gurmeet Kaur has been impleaded but it is stated that there are two complainants, i.e. Gurmeet Kaur and Balvir Singh. Further perusal of the said report would show that statements of both Gurmeet Kaur and Balvir Singh have been recorded who have stated that they have compromised the matter with the present petitioner Balwinder Singh @ Babbu only. The compromise has been found to be voluntary, genuine, and out of free will.

Learned counsel appearing for respondent no.2 has submitted that the entire matter has been compromised with the present petitioner Balwinder Singh @ Babbu. It is further pointed out that in the present case,

there are two accused but the compromise has been effected only with Balwinder Singh @ Babbu and thus, the present case is a case of partial compromise.

Learned counsel for the petitioner 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 petitioner 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 petitioner only although, the matter had not been compromised between all the parties.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioner.

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 bringing out peace and amity between the two 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

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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR no.63 dated 11.05.2020 registered under Sections 452, 323, 506 read with Section 34 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police

emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

April 26, 2022.
Davinder Kumar

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