

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CRM-M-15657-2021
Decided on : 19.05.2022

Sukhpinder Singh @ Sukh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Suneet Kumar, Advocate for
Mr. Gagandeep Singh Manku, Advocate
for the petitioners.

Ms Ruchika Sabherwal, AAG, Punjab.

Mr. A. S. Manaise, 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. 272 dated 05.12.2020 Sections 307, 323, 148, 149 of the Indian
Penal Code, 1860 and Sections 25 and 27 of the Arms Act registered at
Police Station City Batala, District Batala (Annexure P-1) and all
subsequent proceedings arising on the basis of the compromise.

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

*“Prayer in this petition is for quashing of
the FIR in question along with all the subsequent
proceedings arising therefrom on the basis of the
compromise entered into between the parties.*

Notice of motion.

*At this stage, Ms. Bhavna Gupta, DAG,
Punjab and Mr. Vishal Munjal, Advocate put in*

appearance and accept notice on behalf of respondent No. 1/State and respondent Nos. 2 and 3, respectively. Learned counsel for respondent Nos. 2 and 3 admits to the factum of compromise entered into between the parties.

List again on 16.04.2021.

In the meantime, the parties are directed to appear before the trial Court/Illaqua Magistrate for recording of their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaqua Magistrate 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 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 FIR or not.*

However, this will be subject to payment of Rs. 10,000/- as costs, to be deposited by the petitioners with the District Legal Services Authority, concerned.”

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

“2. Both complainants namely Bharat Kalyan son

of Jatinder Kalyan resident of House No. BX/285, Mohalla Valmiki, Nehru Gate, Batalu, District Gurdaspur (Respondent No.2) and Bhavish son of Deepal, Resident of Mohalla Valmiki, Nehru Gat, Batala got recorded their statement to the effect that present FIR bearing No. 272 dated 05.12.2020 under Sections 307, 323, 148, 149 IPC and Section 25 & 27 of Arms Act, 1959 Police Station City, Batala was registered against the accused namely (1) Sukhpinder Singh alias Sukha son of Salwinder Singh resident of village Loh Chap. (2) Abhay Kaushal son of Amit Kumar, Resident of B-53/1043, Navroop Nagar, Batala, District Gurdaspur, (3) Parminder Singh alias Prince son of Sarwan Singh resident of House No. 1085, Navroop Nagar, Batala, District Gurdaspur (4) Baghelbir Singh Pannu alias Baghel Singh son of Mastan Singh resident of House No. 122/3, Dharampura Colony, Batala and (5) Shehbaz Singh son of Jagir Singh resident of village Lahora, Tehsil Batala, District Gurdaspur on their statement. Now they have compromised the matter with accused with the intervention of the respectables. They further stated that they have no objection If FIR bearing No. 272 dated 05.12.2020 under Sections 307, 323, 148, 149 IPC and Section 25 & 27 of Arms Act, 1959 Police Station City, Batala, be quashed qua the above said persons. They further stated that they have given their statements with their free will and without any coercion and any pressure. Further, compromise effected between them and accused persons are not having any adverse effect on the rights of any third party. They have also placed

on record copy of their Aadhar Card as Ex. C1 & Ex. C2 and was identified by their counsel Sh. Sumeet Narang, Advocate.

3. Similarly, accused persons namely (1) Abhay Kaushal son of Amit Kumar, Resident of B-53/1043, Navroop Nagar, Batala, District Gurdaspur. (2) Parminder Singh alias Prince son of Sarwan Singh: resident of House No. 1085, Navroop Nagar, Batala, District Gurdaspur (3) Baghelbir Singh Pannu alias Baghel Singh son of Mastan Singh resident of House No. 122/3, Dharampura Colony, Batala and (4) Shehbaz Singh son of Jagir Singh resident of village Lahora, Tehsil Batala, District Gurdaspur also got recorded their separate statements to the effect that they have compromised the matter with the complainant and they have filed petition under Section 482 Cr.P.C for quashing the FIR bearing No. 272 dated 05.12.2020 under Sections 307, 323, 148, 149 IPC and Section 25 & 27 of Arms Act, 1959 Police Station City, Batala vide CRM-M-15657-2021 pending in the Hon'ble Punjab & Haryana High Court, Chandigarh. They further stated that they have given their statements with their free will and without any coercion and any pressure. They also stated that compromise effected between them and complainants are not having any adverse effect on the rights of any third party. They have neither been declared proclaimed persons/offenders by any Court of law nor any P.O. proceeding is pending against them. At the end, he further stated that except the present FIR, no other criminal proceedings is pending against them. They placed on record

copies of their Aadhar Card as Ex. C3 to Ex. C6 and was also identified by their counsel Sh. O.P.Tadhi, Advocate.

4. The Investigating Officer namely ASI Lakhbir Singh No. 1628/Btl has also recorded his statement to the effect that the present FIR was registered on the statement of complainants namely Bharat Kalyan. son of Jatinder Kalyan and Bhavish son of Deepal, wherein five persons namely (1) Sukhpinder Singh alias Sukha son of Salwinder Singh resident of village Loh Chap, (2) Abhay Kaushal son of Amit Kumar, Resident of B-53/1043, Navroop Nagar, Batala, District Gurdaspur, (3) Parminder Singh alias Prince son of Sarwan Singh resident of House No. 1085, Navroop Nagai. Batala, District Gurdaspur (4) Baghelbir Singh Pannu alias Baghel Singh son of Mastan Singh resident of House No. 122/3, Dharampura Colony, Batala and (5) Shehbaz Singh son of Jagir Singh resident of village Lahora, Tehsil Batala, District Gurdaspur were arrayed as accused. They are only two Victim/complainants namely Bharat Kalyan son of Jatinder Kalyan and Bhavish son of Deepal, in the present FIR. He further stated that none of the accused has been declared as proclaimed offender nor any PO proceedings are pending against any of the accused. Except the present FIR, no other FIR has been registered against the above named accused person.”

A perusal of the above report would show that although, both the complainant and the victim have given the statements in support of the compromise but one of the petitioners namely Sukhpinder Singh @ Sukh

i.e. petitioner No. 1 has not got his statement recorded.

Learned counsel for the petitioners has submitted that the present petition has also been filed by petitioner No. 1 and he has prayed that the matter be compromised qua all the petitioners. He has further submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent Nos. 2 and 3 has submitted that since the matter has been compromised, thus, he has no objection in case the entire FIR is quashed.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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. 272 dated 05.12.2020 Sections 307, 323, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act registered at Police Station City Batala, Distict Batala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 19th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No