

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-14613-2022(O&M)
Date of decision : 17.08.2022

SHAMSHER SINGH AND OTHERS

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Shubham Mehta, Advocate for
Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Vivek Singla, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.0285 dated 23.12.2021 registered under Sections 379, 323, 325, 148 and 149 of the Indian Penal Code at Police Station Lopoke, District Amritsar Rural (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 21.03.2022 (Annexure P-2).

On 26.07.2022, this Court was pleased to pass the following order:-

“ Learned counsel for the petitioners has submitted that a cost of Rs.5,000/- as imposed vide order dated 04.05.2022 has been deposited in the High Court Lawyer's Welfare Fund and a receipt regarding the same

has been produced today in the Court, which is taken on record as mark 'A'.

Learned counsel for the petitioners has further submitted that in pursuance of the order dated 04.05.2022, the parties could not appear before the learned trial Court for recording their statements and seeks another 10 days time from today to get the statements recorded qua the compromise.

Since the statements of the parties could not be recorded as the respondents have not appeared before the learned Illaqa Magistrate/trial Court in spite of giving direction, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioners in the Punjab and Haryana High Court Employees' Welfare Association Fund within a period of 10 days from today.

Adjourned to 17.08.2022.

The trial court shall only record the statements of parties on production of the receipt of said payment.

It is made clear that if the said amount is not deposited within the stipulated period of time, then the present petition would be deemed to have been dismissed. July 26, 2022”

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

“Respected sir, from the very limited information available before this Court amid the above reported absence of the parties, my point-wise report is as under :

From the aforementioned statements of the parties, it clearly appears that the compromise inter-se the parties was genuine, voluntary

and the same had been effected without any pressure. coercion or undue influence.

From the information made available before this Court, vide the statement of the Investigating Officer of this matter namely ASI Daljit Singh No. 791/Amritsar (R), 04 persons namely Shamsher Singh s/o Balkar Singh, Ranjit Singh @ Rana s/o Shamsher Singh, Bachittar Singh s/o Shamsher Singh and Harmanpreet Singh (@ Harman Singh s/o Balwinder Singh were arrayed as accused. None of the accused were a proclaimed offender and that the aforesaid accused were not involved in any other criminal case. As per his information Sharnagat Singh and Dharminder Singh, both sons of Harbans Singh @ Harbant Singh were the only injured/victims of the present case.

Yours faithfully,

*Ankit Miriy
Judicial Magistrate 1-Class,
Ajnala
(UID NO PRO455)”*

A perusal of the above said report would show that the amount of Rs.5,000/- each as imposed vide order dated 04.05.2022 and 26.07.2022 has been deposited in the High Court Lawyers' Welfare Fund and Punjab & Haryana High Court Employee's Welfare Association.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offender in the present case.

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

Learned counsel for respondent nos.2 & 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 bringing out peace and amity between the parties. He prayed that FIR and subsequent proceedings may be quashed.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned 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 feel that the same was 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, this petition is allowed and FIR No.0285 dated 23.12.2021 registered under Sections 379, 323, 325, 148 and 149 of the Indian Penal Code at Police Station Lopoke, District Amritsar Rural (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 21.03.2022 (Annexure P-2) are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

17.08.2022
Amandeep

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