

251

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-25067-2018

Date of decision : 18.08.2022

Tarun Kumar @ Micky and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Veneet Sharma, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Sandeep Sharma, Advocate for respondent Nos.2 to 5.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.281 dated 09.12.2015 registered under Sections 307 and 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Cantonment, Amritsar City, District Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 19.07.2022, this Court had passed the following order:-

“CRM-13870-2019

This is an application filed under Section 482 Cr.P.C. for impleading Kawaljit Singh @ Raja, Roop Lal Sharma and Vicky @ Vippy Pehlwan as respondents No. 3 to 5 as they are also victims in the present case.

Learned State counsel as well as counsel for

respondent No. 2 have stated that they have no objection in case the present application is allowed.

Keeping in view the abovesaid facts and circumstances, the present application is allowed and Kawaljit Singh @ Raja, Roop Lal Sharma and Vicky @ Vippy Pehlwan are impleaded as respondents No. 3 to 5 respectively.

Amended memo is taken on record.

Registry is directed to tag the same at its appropriate place.

Main Case

Learned counsel for the petitioners as well as counsel for respondents No. 2 to 5 have submitted that in the present case, no injury has been declared to be dangerous to life and thus, the offence under Section 307 IPC, prima facie, is not made out.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.*

Adjourned to 18.08.2022. ”

In pursuance of the abovesaid order, a report has been

submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“The report of the undersigned is as follows:

(A) Statement of the parties have been recorded on 25.07.2022.

(B) With respect to the remaining information as sought by the Hon'ble High Court, the investigating officer was summoned and his statement was recorded on 02.08.2022. As per the statement of the investigating officer ASI Lakhwinder Kumar, the information sought is provided as follows:

(i) As per the statement of IO, there are three accused persons in the present case i.e accused Tarun Kumar, Harish Kumar and Davinder Singh. There is no other accused involved in the FIR at hand.

(ii) None of the accused has not been declared as a proclaimed person or offender.

(iii) Statement of the accused persons namely Tarun Kumar, Harish Kumar and Davinder Kumar and the complainant/victims namely Saurav Kumar, Roopa. Vicky @ Vippy and Kawaljit Singh @ Raja was recorded in the presence of their counsels in open court after questioning them with respect to their voluntariness. On the basis of the statements recorded in the presence of the counsels who duly identified their respective clients and the demeanor of the accused persons and complainant/victims, the undersigned is of the considered opinion that compromise reached is genuine, voluntarily and without any coercion or undue influence.

(iv) As per the report of the investigating officer, the accused persons are not involved in any other case or

FIR.

(v) As per the statement of the investigating officer, there is only one complainant in the present case i.e. Saurav Kumar. Apart from him, there are three victims namely Roop Lal, Vicky @ Vippy and Kawaljit Singh @ Raja in the present case.

4. The copy of the statement of the IO, accused persons and complainant and victims is being annexed along with the present report for your kind perusal and reference.

Accordingly the report is being submitted.

Thanking you,

Yours faithfully,

Sd/- (Ankita Loomba PCS)

Judicial Magistrate First Class

Amritsar. UID PB0576”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused 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.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for respondent Nos.2 to 5 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 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**”, reported as **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**”, reported as **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.281 dated 09.12.2015 registered under Sections 307 and 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Cantonment, Amritsar City, District Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

18.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**