

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-16312-2022
Decided on : 16.05.2022

Harmandeep Singh @ Anu

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Jasraj Singh, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

Mr. Parunjeet Singh, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 138 dated 24.05.2015 under Sections 323 and 341 of the Indian Penal Code, 1860 (Section 34 IPC added later on) registered at Police Station Dasuya, District Hoshiarpur (Annexure P-1) as well as order dated 07.12.2017 (Annexure P-4) vide which the petitioner has been declared as proclaimed offender and all subsequent proceedings arising therefrom, on the basis of the compromise.

On 25.04.2022, 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.138 dated
24.05.2015 registered under Sections 323, 341 of*

the Indian Penal Code, 1860 (Section 34 of IPC has been added later on) at Police Station Dasuya, District Hoshiarpur and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that earlier petition i.e. CRM-M-14236-2021 was also filed but the same was on merits whereas the present petition has been filed on the basis of compromise. It is further submitted that initially, there were two accused persons in the present case and one of the accused has been acquitted vide judgment dated 05.02.2019 (Annexure P-2) and the petitioner was not aware about the said proceedings and was declared as proclaimed offender. It is further contended that the order declaring petitioner as proclaimed offender has also been challenged in the present petition.

Notice of motion for 16.05.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Parunjeet Singh, Advocate appears on behalf of respondent No.2.

Learned counsel for respondent No.2 has submitted that the matter has been compromised and the complainant/respondent No.2 has no objection in case, the present petition is allowed and the FIR in question and all the subsequent proceedings arising therefrom on the basis of compromise and the order declaring petitioner as proclaimed offender are quashed.

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.*

In the meantime, the operation of the order dated 07.12.2017 (Annexure P-4) shall remain stayed.

It is however clarified that the stay of operation of order dated 07.12.2017 (Annexure P-4) would not come in the way of the parties to record their statements before the trial Court.”

In pursuance of the above order, a report has been submitted by the Sub Divisional Judicial Magistrate, Dasuya to the Deputy Registrar (Criminal) of this Court. The relevant portion of the

said report is reproduced hereinbelow:-

“In compliance to the aforesaid order passed by the Hon'ble Punjab and Haryana High Court in CRM-M-16312-2022 it is respectfully submitted that the point wise report of undersigned is as follows:

(i) As per statement of ASI Rashpal Singh and record there are only two persons namely Harmanpreet Singh and Harmandeep Singh are arrayed as accused in the present FIR

(ii) As per statement of ASI Rashpal Singh and record at present neither any accused has been declared proclaimed offender in the present at present and one of the accused namely Harmandeep Singh has been declared proclaimed offender vide order dated 7.12.2017 as per his own statement.

(iii) In view of the statement recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion.

(iv) As per statement of ASI Rashpal Singh and record the accused person namely Harmanpreet Singh and Harmandeep Singh are not involved in any other FIR.

(v) As per statement of ASI Rashpal Singh and record, Jaspreet Singh is only complainant in the present FIR and apart

from complainant there is no other complainant/victim in the present FIR.

As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself.”

A perusal of the above report would show that it has been stated that the statements of Complainant as well as the petitioner have been recorded in the case and they 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 respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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 petitioner 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. 138 dated 24.05.2015 under Sections 323 and 341 of the Indian Penal Code, 1860 (Section 34 IPC added later on) registered at Police Station Dasuya, District Hoshiarpur (Annexure

P-1) as well as order dated 07.12.2017 (Annexure P-4) vide which the petitioner has been declared as proclaimed offender and all subsequent proceedings arising therefrom, on the basis of the compromise, are ordered to be quashed, qua the petitioner.

May 16th, 2022

Mehak

(VIKAS BAHL)

JUDGE

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