

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

213 (3)

CRM-M-34588-2021 (O&M)

Decided on : 11.02.2022

Karan Kangra

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Shrey Goel, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Harinder Pal 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. 34 dated 09.02.2021 registered under Section 406 IPC registered at Police Station Division No. 3, Police Commissionerate Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 22.12.2021, the following order was passed:-

“Learned counsel for the petitioner has submitted that as there is another FIR against the petitioner and thus, he could not appear before the trial Court and seeks one more opportunity for recording the statements of the parties.

Adjourned to 11.02.2022.

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

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.*

A photocopy of this order be placed on the files of connected cases. ”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Ludhiana to the Registrar of this Court.

The relevant portion of the said report is reproduced hereinbelow:-

“Respected Sir,

With reference to the subject cited above, it is hereby submitted that Hon'ble Punjab & Haryana High Court vide order dated 22.12.2021, has pleased to call report of this court regarding statement of both the parties as regarding compromise effected between the parties or not in case bearing FIR No.34 of 09.02.2021 U/S 406 of IPC, PS Division No.3, Ludhiana and to send a report, accordingly

In compliance with the same, the parties i.e. Complainant Kala appeared in person in the court and his statement

was recorded accordingly while the accused/applicant namely Karan Kangra failed to appear before the Court in person to get his statement recorded.

Counsel for accused appeared before the court and filed a power of attorney and produced on record copy of medical certificate/record of accused/petitioner namely Karan Kangra where he has been advised for bed rest and also placed on record copy of affidavit of accused/petitioner where it has been submitted on oath by the accused/petitioner that matter has been compromised with the complainant. Copy of the same is attached herewith.

The copy of affidavit of complainant has also been placed on record in which complainant has submitted on oath that written compromise has been arrived at between complainant and accused on 24.09.2021 and he has no objection if the case registered against Karan Kangra be quashed as per orders of the Hon'ble Court. Copy of the same is attached herewith.

Complainant/respondent Kala son of Ashok Kumar resident of House no. 2569, Ajit Nagar, Near Mini Rose Garden, Ludhiana suffered a statement in writing before the court that on his complaint, one FIR no. 0034 dated 09.02.2021, under Section 406 IPC was registered at PS Division No.3, Ludhiana against the accused Karan Kangra and now with the intervention of respectables, he has entered into a compromise with the accused without any pressure or coercion from the accused side. He has no objection if the quashing petition bearing CRM-M-35488-2021 filed before Hon'ble Punjab and Haryana High Court be allowed.

xxx--xxx--xxx

As desired, the report is as follows:

- 1. As per FIR and report of concerned Ahlmad and statement of Investigating officer ASI Jagdish Raj, there is only one person i.e. petitioner arrayed as accused.*
- 2. As per statement of Investigating officer, the accused person has not been declared as proclaimed offender at any stage of the case.*
- 3. The statement of complainant has been recorded to the effect that compromise is genuine, voluntary and without any undue influence or coercion. However, as the accused fails to appear before the court to record the statement of compromise, therefore, statement the accused/petitioner could not be recorded in compliance of directions given in CRM-M-34588-2021 (O &M).*
- 4. AS per statement of Investigating Officer ASI Jagdish Raj, apart from FIR no. 34 dated 09.02.2021 under Section 406 IPC, PS Division No.3, Ludhiana, Accused person is involved in other FIR no. 247 dated 11.08.2021 under Section 406, 420 of IPC registered at PS Division no.8, Ludhiana, FIR no. 46 dated 03.02.2015 under Section 420, 120-B of IPC, PS Basti Jodhewal, Ludhiana, FIR no. 166 dated 14.08.2014 under Section 342, 506, 34 of IPC at PS Salem Tabri, Ludhiana, FIR no. 199 dated 09.02.2021 under Section 406 of IPC. PS Division no.2, Ludhiana, FIR*

no.38 dated 28.01.2021 under Section 406 IPC, PS Division no. 5, Ludhiana, FIR no. 194 dated 30.07.2021 under Section 406 and 420 of IPC, PS Division no.2, Ludhiana, FIR no. 175 dated 12.08.2021 under Section 406 and 420 of IPC Ps Model town, Ludhiana.

5. *As per statement of Investigating officer, there is only one Complainant in the present FIR namely Kala son of Ashok Kumar.*

The requisite report is accordingly submitted please, for onward transmission to the Hon'ble High Court. Photocopies of the statement so recorded alongwith relevant documents are enclosed herewith, for kind perusal, please.

Thanking you."

A perusal of the said report would show that the complainant has submitted that the compromise is genuine and bona fide and he has no objection in case the FIR is quashed. It was noticed that although, the petitioner had not appeared before the Court to get his statement recorded, but his counsel had appeared and had given an affidavit of the petitioner in which it has been stated that the matter has been compromised. The petitioner is stated to be involved in other cases, however, the same would not come in the way of the petitioner for seeking the quashing of the FIR in the present case, since the compromise has been found genuine and bonafide.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case.

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

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, this Court finds that the matter has been amicably settled between the petitioners 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 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. 34 dated 09.02.2021 registered under Section 406 IPC registered at Police Station Division No. 3, Police Commissionerate Ludhiana (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

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

(VIKAS BAHL)
JUDGE

February 11th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No