

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-17595-2021

Date of decision : 26.04.2022

Kancharla Alivelu

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prince Goyal, Advocate for
Mr.B.K.Mehta, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Hitesh Chopra, Advocate
for complainant-respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.54 dated 24.05.2018 registered under Sections 420, 120-B IPC at Police Station Amargarh, District Sangrur and all other consequential proceedings arising therefrom on the basis of compromise.

On 27.04.2021, a coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conferencing.

This petition has been filed seeking quashing, on the basis of a compromise arrived at between the petitioner and respondent no.2, of FIR no.54, dated 24.05.2018 (as also all other subsequent proceedings arising therefrom), registered at Police Station Amargarh, District Sangrur, for the alleged commission of offences punishable under Sections 420/120-B of the IPC. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Sandeep Singh Deol, learned DAG, Punjab, accepts notice on behalf of respondent no.1. Mr. Himesh Chopta, Advocate, appears for respondent no.2 and accepts notice. He would file a power of attorney duly executed in his favour in the Registry in the meanwhile.

A copy of the petition be e-mailed to learned State counsel by learned counsel for the petitioner today itself.

Adjourned to 24.08.2021.

In the meanwhile, the petitioner, as also respondent no.2, would appear before the learned trial Court/Area Magistrate (as the case may be) up to 27.05.2021 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioner.

April 27, 2021

*(AMOL RATTAN SINGH)
JUDGE”*

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

“Respected Sir,

I have the honour to submit that in compliance to the order dated 27.04.2021 of Hon'ble Punjab and Haryana High Court, Chandigarh passed in CRM-M-17595 of 2021, the complainant Gurmail Singh and Suraj Singh (Special power of attorney of accused Kancharla Alivelu) have appeared and their statements have been recorded. The report is submitted as under:

1.As per the statement of complainant Gurmail Singh and Suraj Singh (attorney of accused Kancharla Alivelu), complainant and accused have entered into compromise without any threat, force, coercion and undue influence. As per the compromise,

complainant has received a sum of Rs.6.5 lacs from accused. The said compromise seems to be genuine, voluntary and without any coercion or undue influence.

2. *As per the report of Police of PS Amargarh, there is no any other complainant in this case except Gurmail Singh.*

Submitted Please.

Dated: 15.07.2021

Yours faithfully,

*(Harshbir Sandhu) PCS,
Judicial Magistrate Ist Class,
Malerkotla”*

A perusal of the above said report would show that the petitioner (appearing through his special power of attorney) and respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

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

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

Learned counsel for complainant-respondent no.2 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

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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR no.54 dated 24.05.2018 registered under Sections 420, 120-B IPC at Police Station Amargarh, District Sangrur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

April 26, 2022.
Davinder Kumar