

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-17025-2022
Decided on : 19.05.2022

Deepak Bhardwaj and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Hitesh Chopra, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, AAG, Punjab.

Mr. Prince Goyal, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 139 dated 05.09.2021 under Sections 323, 342, 506, 427, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Division No. 2, Tehsil and District Pathankot (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 26.04.2022, this Court was pleased to pass the following order:-

“This is a first petition under Section 482 Cr.P.C. praying for quashing of FIR No.139 dated 05.09.2021 registered under Sections 323, 342, 506, 427, 148, 149 IPC at Police Station Division no.2, Tehsil and District Pathankot and

all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 19.05.2022.

On the asking of the Court, Mr.Sukhbeer Singh, AAG, Punjab accepts notice on behalf of respondent no.1. Mr.Prince Goyal, Advocate, appears on behalf of complainant-respondent no.2 and admits the factum of compromise.

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 pursuance of the above order, a report has been submitted by the Judicial Magistrate 1st Class, Pathankot to the

Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“It is submitted that:

(i) It is submitted that as per statement of Investigating Officer, there are only six accused/petitioner i.e. Deepak Bhardwaj, Neetu Joshi, Vipin Kumar alias Vipin Joshi, Harsh Joshi, Sahil Joshi and Vipin Kumar alias Vipin Sharma arrayed in the FIR and there is only one complainant i.e. Suraj Kumar in the present FIR.

(ii) It is submitted that as per statement of accused/petitioner, no one is declared as proclaimed offender.

(iii) It is submitted that as per statement of complainant as well as accused the compromise is genuine, voluntary and without any coercion or undue influence.

(iv) It is submitted that as per statement of parties, only accused/ petitioner namely Deepak Bhardwaj and Neetu Joshi are involved in another case FIR No.26/2021 P.S Damtal (H.P.) except them no other accused is involved in any other FIR.

(v) It is submitted that as per statement of Investigating Officer, there is only one complainant/ victim i.e. Suraj Kumar in the present FIR.

Statements of complainant Suraj Kumar as well as accused Deepak Bhardwaj, Neetu Joshi, Vipin Kumar, Harsh Joshi, Sahil Joshi and Vipin

Kumar alias Vipin Sharma and Investigating Officer are attached herewith.

This is for your kind perusal.

Submitted please.”

A perusal of the above report would show that the statements of Complainant as well as the petitioners 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 the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case.

Learned counsel for the State, as per instructions, has stated that the abovesaid fact is 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 as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners 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. 139 dated 05.09.2021 under Sections 323, 342, 506, 427, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Division No. 2, Tehsil and District Pathankot (Annexure

P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 19th, 2022

Mehak

(VIKAS BAHL)

JUDGE

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