

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-14478-2019

Date of decision:06.09.2022

Baljit Kaur and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Satwant Mehta, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Jasmandeep Singh, Advocate for respondents No.2 to 4.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.29 dated 02.04.2017 registered under Sections 323, 325, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Verowal, District Tarn Taran (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 02.08.2022, this Court was pleased to pass the following order:-

“Learned counsel for the parties has submitted that one last opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 06.09.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 3 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.*

However, since the statement of the parties could not be recorded as the parties have not appeared before the Illaqa Magistrate/trial Court in spite of giving direction, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioners with the Bar Clerks Association, Punjab and Haryana High Court, Chandigarh, within a period of 10 days from today.

The trial Court shall only record the statements of parties on production of receipt of said payment.

It is made clear that if the said amount is not deposited within the stipulated period of time, then the present petition would be deemed to have been dismissed.

A photocopy of this order be placed on the file of other connected order.

(VIKAS BAHL)
JUDGE”

02.08.2022

In pursuance to the said order, a report has been submitted by Sub Divisional Judicial Magistrate, Khadur Sahib. The relevant portion of the said report is reproduced hereinbelow:-

“Parties have placed on record receipt with regard to the payment of costs of Rs.5,000/- deposited with the Bar Clerk Association, Punjab and Haryana High Court Chandigarh.

The Statement of ASI Lakhwinder Singh belt no.816/TT was also recorded. As per statement of IO and statement of both the parties the report is as follows: -

i) That the present FIR was registered on the statement of complainant Kashmir Singh son of Swaran Singh against four accused persons namely: -Baljit Kaur wife of Balwinder Singh, Balwinder Singh son of Bakhtawar Singh, Akashdeep Singh son of Balwinder Singh and Sahib Singh @ Pratap Singh son of Sardara Singh.

ii) That there is no accused declared Proclaimed Offender in present case.

iii) That the compromise drawn amongst the parties

concerned, covers all the concerned in the penal transaction concerned and the same is genuine, voluntarily, without any coercion or undue influence with their free will.

iv) That the above said accused persons are not involved in any other FIR.

v) That the complainant Kashmir Singh, Harjit Kaur and Manjit Kaur are victims in this case and they got received injuries at the time of occurrence.

As such, the compliance report alongwith the statements of the present parties is hereby sent to your goodself's office.

Report submitted, please.

Yours faithfully,

*Ms. Gurpreet Kaur, PCS,
Sub Divisional Judicial Magistrate,
Khadur Sahib”*

A perusal of the above said report would show that the petitioners and respondents No.2 to 4 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offenders 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 petitioners.

Learned counsel for respondents No.2 to 4 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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.29 dated 02.04.2017 registered under Sections 323, 325, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station

proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

06.09.2022
Ishwar

(VIKAS BAHL)
JUDGE

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