

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

CRM-M-18167-2022

Date of decision: 29.08.2022

Nahar Singh @ Kala and anotherPetitioners

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sanjeev Goyal, Advocate, for the petitioners.

Mr. Manipal Atwal, DAG, Punjab.

Mr. Ravi Kumar, Advocate, for respondent No.2 .

AMAN CHAUDHARY, J. (ORAL)

Present petition has been filed for quashing of FIR No.230 dated 23.12.2021 under Section 420/467/468/471/120-B IPC, registered at Police Station (City) Sangrur (Annexure P-1), and all other consequential proceedings arising therefrom on the basis of the compromise in the shape of affidavit dated 10.03.2022 (Annexure P-2).

On 02.05.2022, this Court had passed the following order:-

“Learned counsel for the petitioners submits that the matter has been compromised with all the accused, though the present petition have been filed by two accused and third accused has been arrayed as respondent No. 3.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 230 dated 23.12.2021, under Sections 420, 467, 468, 471 and 120- B IPC registered at Police Station City Sangrur.

Notice of motion.

Mr. Amit Mehta, Senior DAG, Punjab and Mr. Ravi Kumar, Advocate appearing on advance notice accept the same on behalf of respondents No. 1 and 2 respectively.

The parties are directed to appear before the Illaqa Magistrate/trial court for recording their statements with regard to the compromise on 10.5.2022.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

- (i) Number of persons arrayed as accused in the FIR;
- (ii) Whether any accused is declared as proclaimed offender;
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.

List on 27.5.2022.”

On 27.05.2022, learned counsel for the parties sought one more opportunity to appear before the Illaqa Magistrate and this Court vide order dated 27.05.2022, granted one more opportunity to the parties to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to the compromise on 13.07.2022.

Pursuant to the aforesaid order, report dated 15.07.2022 has been received from the Chief Judicial Magistrate, Sangrur.

The relevant paragraph of the said report is as under:-

“The compromise as per statements of complainant Shri Amit Kumar Bhalla, Advocate and accused Nahar Singh and Soni Singh has been arrived at voluntarily and without any pressure, undue influence or coercion between complainant Shri Amit Kumar Bhalla and accused Nahar Singh, Soni Singh and also with Amarjit Kaur who is also one of the accused in the FIR and respondent No. 3 in the present petition.

It is submitted that vide order dated 27.05.2022, the parties were directed to appear before this Court for recording their statements with regard to the compromise but respondent No. 3 Amarjit Kaur did not appear to get her statement recorded.

The copies of statements of complainant Shri Amit Kumar Bhalla and accused Nahar Singh and Soni Singh are enclosed herewith for your kind perusal.

The report is submitted accordingly.

Thanking you,

Yours faithfully,

G.S. Sekhon

Chief Judicial Magistrate,

Sangrur”.

A perusal of the said report reveals that the compromise has been effected between complainant Shri Amit Kumar Bhalla and accused Nahar Singh, Soni Singh and also with Amarjit Kaur, who is also one of accused in the FIR and respondent No.3 in the present petition. It is further submitted that Amarjit Kaur, accused-respondent No. 3 did not appear to get her statement recorded before the Court below. It is also stated in the report that the compromise effected between Shri Amit Kumar Bhalla, accused Nahar Singh and Soni Singh is without any pressure, coercion or undue influence and no other criminal proceedings have been pending against the accused persons except the FIR in question.

While relying upon the judgment of Hon'ble the Supreme Court in case of ***“Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another”***, 2012(12) SCC 401, learned counsel for the petitioners contends that where there is a partial compromise with some of the accused then also the proceedings against the said accused should be quashed as the same would not even remotely result in conviction of the said accused.

I have heard learned counsel for the parties and have also gone through the case 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 is of the view 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 view that the same was 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 the above, the petition is allowed and FIR No. 230 dated 23.12.2021, under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station City Sangrur, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

29.08.2022

preeti

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No