

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.228

CRM-M-14486-2019

Date of Decision: September 09, 2022

Gurdeep Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Swarn Tiwana, Advocate for the petitioners.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Brijmohan, Advocate for

Mr. S.S. Sarwara, Advocate for respondent Nos.2 and 3.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.139, dated 26.11.2018, under Sections 323, 324, 506, 148 and 149 of the IPC (Section 326 IPC added later on), registered at Police Station Bassi Pathana, District Fatehgarh Sahib, and all other consequential proceedings arising therefrom on the basis of the compromise dated 25.03.2019 (Annexure P-2).

On 22.05.2019, this Court had passed the following order:-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.139 dated 26.11.2018, under Sections 323, 324, 506, 148 and 149 IPC (Section 326 IPC added later on), registered at Police Station Bassi Pathana, District Fatehgarh Sahib (Annexure P-1).

Notice of motion for 24.9.2019.

At the asking of the Court, Mr. Kirat Singh Sidhu, DAG, Punjab accepts notice on behalf of the respondent-State. A

complete copy of the paper book has been furnished to the learned State counsel, in the Court.

At this stage, Mr. Kulwinder Singh, Advocate for Mr. S.S. Sarwara, Advocate causes representation on behalf of respondents No.2 and 3 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 06.6.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 in FIR.*
- 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 case 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 copy of the report be also sent through fax to the Registrar Judicial of this Court. ”

Thereafter, an application was filed on behalf of the petitioners with a request that due to some unavoidable circumstances, the parties could not appear before the trial Court on the dated fixed i.e. 06.06.2019 for recording their statements in respect of the compromise. This Court vide order dated 05.09.2022 allowed the said application and the parties were directed to appear before the trial Court/Illaq Magistrate on 12.09.2019 for getting their statements recorded with regard to the compromise/settlement. Pursuant to the aforesaid order, report dated

18.09.2019 has been received from the Chief Judicial Magistrate, Fatehgarh Sahib. The relevant portion of the said report is as under:-

“1.As per the statement suffered by the IO ASI Kaur Singh, there are three accused in the FIR namely Gurdeep Singh son of Babu Singh, Manpreet Singh @ Money son of Bhupinder Singh resident of Village Alampur, P.S. Bassi Pathana and Lakhwinder Singh son of Jeet Singh R/o village Challehri, P.S. Mulepur.

2. As per the statement suffered by the IO ASI Kaur Singh, none of the accused has been declared as Proclaimed Offender.

3. Considering the statements suffered by the complainant, injured and accused persons, the compromise appears to be genuine and valid one, without any pressure or undue influence or any manner upon either of the party.

4. As per the statement suffered by the IO ASI Kaur Singh, as per his information the accused persons are not involved in any other FIR in P.S. Bassi Pathana.

5. Keeping in view the statements suffered by investigating officer, complainant, injured and accused persons, it can be culled that there are two victims/injured in the FIR in question namely Harmanjeet Singh son of Baljit Singh and Jaswant Singh son of Santoksh Singh and out of them Harmanjeet Singh is the complainant. ”

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are three accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that none

of the accused is declared as proclaimed offender and they are not involved in any other FIR in P.S. Bassi Pathana.

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 petitioner(s) and the complainant(s). 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.139, dated 26.11.2018, under Sections 323, 324, 506, 148 and 149 of of the IPC (Section 326 IPC added later on), registered at Police Station Bassi Pathana, District Fatehgarh Sahib, and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

September 09, 2022

sarita

**(AMAN CHAUDHARY)
JUDGE**

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