

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121+239

CRM-M-29951-2018 (O&M)
Decided on : 04.04.2022

B. K. Pandey

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Anand Vardhan Khanna, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

None for respondent No. 2.

VIKAS BAHL, J. (Oral)

CRM-12615-2022

Allowed as prayed for.

Annexures P-4 and P-5 are taken on record subject to all just
exceptions.

Main Case

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 88 dated 14.05.2017 under Sections 307 and 34 of the Indian
Penal Code, 1860 registered at Police Station Phase-1, District SAS
Nagar, Mohali (Annexure P-1) and all subsequent proceedings arising
therefrom on the basis of the compromise.

When the matter came up before a Coordinate Bench of this Court on 31.10.2018, the following order was passed:

“The parties are directed to appear before the trial Court for recording their statements with regard to compromise/settlement within a period of 30 days from today.

The 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 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.*

To await the report, list again on 24.01.2019.

Sd/-
(ARVIND SINGH SANGWAN)
JUDGE”

31.10.2018

In pursuance of the said order, a report has been submitted by the Chief Judicial Magistrate, SAS Nagar, Mohali to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“The report is submitted as under:

- 1. As per the statement of IO there are five accused in the FIR. One accused is named B.K. Pandey. The other accused are unnamed.*

2. *As per the report of the Ahlmad, no accused has been declared as Proclaimed Person.*
3. *In view of the statement of the accused B.K. Pandey and the complainant Parbhat Garg, the compromise is genuine voluntary and without any coercion or undue influence.*
4. *As per the report of the Ahlmad, the accused is not involved in any other case. Further as per the statement of the IO, as per the investigation till the date the accused B.K. Pandey is not involved in any other case.*
5. *As per the statement of HC Amar Nath No. 639/SAS Nagar, PS Phase 1, Mohali IO of the case, there is one victim/complainant namely Parbhat Garg in the FIR.*
Submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioner have been recorded in the case and both 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. As per the said report, it has been observed that the petitioner was never declared as proclaimed offender in the present case.

As per the above-reproduced report, there are five accused persons in the present case and the present petition has been filed only by one accused i.e. the present petitioner namely B. K. Pandey and a

prayer has been made by counsel for the petitioner as well as counsel for the complainant that the FIR be quashed qua the petitioner.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as 2012 (12) SCC 401, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh and others** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

Learned counsel for the petitioner has further submitted that the offence under Section 307 IPC is not made out moreso, against the present petitioner. Reference has been made to the affidavit of respondent No. 2 dated 29.06.2017 (Annexure P-2) as per which the respondent No. 2 has submitted that there was an unknown person with whom the respondent No. 2 had a dispute and now that he had seen the petitioner, he could tell that the petitioner is not that person. Further reference has been made to the medical report dated 13.05.2017 which had been prepared by a private hospital which also shows that the

injuries would not prima facie constitute the offence under Section 307 IPC.

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 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. 88 dated 14.05.2017 under Sections 307 and 34 of the Indian Penal Code, 1860 registered at Police Station Phase-1, District SAS Nagar, Mohali (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

All the pending miscellaneous applications, if any, stand disposed of, in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

April 4th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No