

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

CRM-M-18171-2022

Date of Decision: September 08, 2022

KULWINDER SINGH AND ANR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Balbir Singh Jaiswal, Advocate
petitioners.

Mr. M.S. Atwal, AAG, Punjab.

Mr. Karan Dhawan, Advocate for
Mr. Nitin Sharma, Advocate
for respondent No.2.

AMAN CHAUDHARY, J.(ORAL)

Present petition has been filed for quashing of FIR No.138 dated 25.08.2018, under Sections 323/341/342/34 IPC of 1860, registered at Police Station Division-B District Amritsar and offence under Section 324 IPC is added later on all other consequential proceedings arising therefrom on the basis of the compromise deed dated 25.04.2022 (Annexure P-2).

Learned counsel for the petitioners submits that Jaisper Singh who was also named in the FIR as an accused was a juvenile, who has been discharged with the offences vide judgment dated 30.07.2021, in view of the compromise arrived at between the parties. Two other persons in the FIR namely Ravinder Singh and Saneh were found to be innocent during the investigation and challan only against the present petitioners was filed, who

have given their statements before the learned trial Court as is evident from the report.

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

“The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 138 dated 25.08.2018 under Sections 323/341/342/34 of the Indian Penal Code (Section 324 IPC added later on) registered at Police Commissionerate Division-B District Amritsar and all consequential proceedings arising there from on the basis of compromise (Annexure P-2) effected between the parties.

Notice of motion.

At this stage, Ms. A.K. Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Nitin Sharma, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise (Annexure P-2).

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 18.05.2022 or on any other date as convenient to the Court.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:

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

To come up on 08.08.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.”

Pursuant to the aforesaid order, report dated 06.08.2012 has been received from Judicial Magistrate Ist Class, Amritsar. The relevant paragraph of the said report is as under:-

“i) The number of persons arraigned as accused in the present FIR is five known and seven unknown persons. The five accused include the present petitioners and one Jasper Singh (Juvenile), Ravinder Singh and Sneh.

ii) As per the report of the Ahlmad, neither of the petitioners is a proclaimed offender. pending for

iii) The trial has not yet commenced and the case is under consideration on charge.

iv) After perusing the statements of the parties, this Court is satisfied that the compromise is genuine, voluntary and out of free will of the parties.”

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 five accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion.

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 complainants. 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.138 dated 25.08.2018, under Sections 323/341/342/34 IPC of 1860, registered at Police Station Division-B District Amritsar and offence under Section 324 IPC is added later on and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

08.09.2022
Sangeeta

(AMAN CHAUDHARY)
JUDGE

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