

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(264)

CRM-M-20831-2022

Date of decision: - 11.07.2022

Charanjit Singh alias Jeeta and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sanjeev Kumar Bawa, Advocate
for the petitioners.

Mr. Dhruv Dayal, Senior DAG, Punjab.

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.122 dated 24.04.2018 registered under Sections 323, 324, 326, 452 and 34 of the Indian Penal Code, 1860 at Police Station Phillaur, District Jalandhar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 16.05.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.122 dated 24.04.2018 registered under Sections 323, 324, 326, 452, 34 of the Indian Penal Code, 1860 at Police Station Phillaur, District Jalandhar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioners has submitted that petitioner No.2 has been declared as proclaimed offender vide order dated 01.04.2019 (Annexure P-3) and thus, operation of the said order dated 01.04.2019 may kindly be stayed so that petitioner No.2 can also appear before the trial Court and get his statement recorded. It is further submitted that initially, there were three accused persons but compromise is effected only with two accused persons (present petitioners) who have filed the present petition and thus, the present case is a case of partial compromise and has relied upon judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012(12) SCC 401** to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.*

Notice of motion for 11.07.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Mukesh Kumar Bhatnagar, Advocate appears on behalf of respondent Nos.2 and 3.

Learned counsel for respondent Nos.2 and 3 have also reiterated the abovesaid facts as stated by learned counsel for the petitioner.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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.*

In the meantime, the operation of order dated 01.04.2019 (Annexure P-3) shall remain stayed.”

Thereafter, on 30.05.2022, this Court was pleased to pass the following order: -

“This is an application seeking permission to extend the time of recording the statements of the parties before the trial Court.

Learned counsel for the applicant-petitioners has submitted that vide order dated 16.05.2022 passed by this Court, on the basis of the statement made by the counsel for the parties, period of 15 days was granted for recording of the statements of the parties before the trial Court. It is further submitted that the statements of the parties could not be recorded due to the reasons as mentioned in the application and thus, prayed that the said time be extended upto 03.07.2022.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of non-applicant/State and has submitted that he has no objection in case, the present application is allowed and the period is extended as the main case is stated to be fixed for 11.07.2022. Mr. Mukesh Kumar Bhatnagar, Advocate appears on behalf of non-applicant/respondent Nos.2 and 3 and has reaffirmed the abovesaid facts as stated by learned counsel for the applicant-petitioners.

Keeping in view the facts and circumstances, the present application is allowed and the time is extended upto 03.07.2022 for getting the statements of the parties recorded before the trial Court.”

In pursuance of the said order, the report has been submitted by the Sub Divisional Judicial Magistrate, Phillaur, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“After having considered the statements of both the parties pints vise report is submitted as under: -

- 1. As per the statement of IO ASI Surinder Singh, in the*

present case there are two accused, namely, Charanjit Singh @ Jeeta and Rakesh @ Rahul is involved.

2. *In the present case, no any accused is declared as proclaimed offender.*

3. *As per his statement, the present accused are not involved in any other case, except the present case.*

4. *IO has also stated that there are only two victim complainants, namely, Happy and Manjit Kaur involved in the present case.*

5. *In view of the statements of both the parties compromise arrived between them appears to be bonafide and is not result of any pressure or coercion in any manner. The compromise effected between the parties appears to be genuine and valid.*

It is further submitted that the statements of the parties which were recorded by the undersigned on 15.06.2022 and copy of their ID proofs are being sent to the Hon'ble High Court along with this report.

Submitted Please.

(Shilpi Gupta)

Sub Divisional Judicial Magistrate

Phillaur. UID No.PB0315.”

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.2 and 3 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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.122 dated 24.04.2018 registered under Sections 323, 324, 326, 452 and 34 of the Indian Penal Code, 1860 at Police Station Phillaur, District Jalandhar Rural (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 11, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No