

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-18727-2022

Date of decision : 31.05..2022

Swaran Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ranjodh Singh Sidhu, Advocate
for the petitioners.

Mr.M.S. Nagra, AAG, Punjab.

Mr.Narinder Kumar Awasthi, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no. 143 dated 24.12.2014 registered under Sections 325, 323, 452, 34 IPC at Police Station Kathunangal, District Amritsar and all other consequential proceedings arising therefrom on the basis of compromise.

On 05.05.2022, 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.143 dated 24.12.2014 registered under Sections 325, 323, 452, 34 of the Indian Penal Code, 1860 at Police Station Kathunangal, District Amritsar and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all

the persons concerned are party to the compromise. It is further submitted that against the judgment dated 29.07.2019 (Annexure P-2), an appeal has been filed before the Additional Sessions Judge, Amritsar i.e. CRA-489-2019, which is pending.

Notice of motion for 31.05.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Narinder Kumar Awasthi, Advocate appears on behalf of respondent No.2 and has reiterated the abovesaid facts as stated by the learned counsel for the petitioners.

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

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 pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“5) The report is as under:-

- 1) As per the statement of the IO, the number of persons arraigned as accused is four.*
- 2) As per the statement of the IO and the report of the Ahlmad, none of the accused persons has been declared as proclaimed offender.*
- 3) 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. The identify of petitioner No.2 Harpal Singh is not disputed by the complainant. It appears that*

inadvertently, the father's name of Harpal Singh was wrongly mentioned as Karnail Singh instead of Swaran Singh in the petition filed before the Hon'ble High Court.

4) *As per the statement of the IO, no other FIR is pending against any of the accused persons.*

5) *As per the statement of the IO, there is only one victim/ complainant i.e. the respondent Jagir Singh.*

Hence, the report is submitted.

Thanking You,

*Enc. Copies of statements of parties
and of the Investigating Officer
alongwith compromise deed
Mark-A.*

*Yours faithfully
Vishav Gupta
Judicial Magistrate Ist Class,
Amritsar/UID No. PB-0527"*

A perusal of the above report shows that the father's name of petitioner no.2 Harpal Singh has been wrongly mentioned as Karnail Singh instead of Swaran Singh in the memo of parties. Learned counsel for the petitioners has prayed that on his oral request, the said mistake in the memo of parties be rectified and instead of "Harpal Singh son of Karnail Singh", petitioner no.2 be shown as "Harpal Singh son of Swaran Singh"

In view of the oral request made by learned counsel for the petitioners, the registry is directed to carry out necessary correction in the memo of parties and petitioner no.2 be shown as son of "Swaran Singh" instead of "Karnail Singh".

A further perusal of the above said report would show that the petitioners and respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

Learned counsel for respondent no.2 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 two parties.

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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR no. 143 dated 24.12.2014 registered under Sections 325, 323, 452, 34 IPC at Police Station Kathunangal, District Amritsar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

May 31, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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