

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(214)

CRM-M-21794-2021

Date of decision: - 06.01.2022

Dharam Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajesh Kapila, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. M.S. Kathuria, Advocate
for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.192 dated 29.10.2020 under Sections 283, 337, 338 and 427 of IPC, registered at Police Station Kalanaur, District Gurdaspur and all the consequential proceedings arising therefrom, on the basis of compromise dated 30.10.2020 (Annexure P-2).

On 02.07.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

Prayer made in this petition is for quashing of FIR as well as

all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 25.09.2021.

In the meanwhile, parties would appear before the Illaqa Magistrate on 25.07.2021 for recording their statements. The concerned Court would file its report in the context of validity and genuineness of the compromise in question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person.”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate (First Class), Gurdaspur, to the Deputy Registrar (Criminal) of this Court. The relevant part of the report is reproduced hereinbelow:-

“Respected Sir,

I have the honour to submit that vide order dated 02.07.2021 passed by Hon'ble Punjab and Haryana High Court, both the parties were directed to appear before the this Court and for recording their statements on 25.07.2021.

It is further submitted that as 25.07.2021 was holiday on account of Sunday, therefore, file was taken up on 26.07.2021. On 26.07.2021 both the parties have appeared and recorded their statement regarding compromise before this Court. Statement of investigating officer was also recorded on 26.07.2021.

It is further submitted that in view of the statements recorded by both the parties, this Court is satisfied that the compromise effected between them is genuine, voluntary and out of free will of the parties.

It is further submitted that as per the statement made by the investigating officer, no antecedent behaviour/criminal activity of the accused is reported till date except the instant FIR.

It is further submitted that as per the statement of investigating officer, only one accused is involved in the instant FIR namely Dharam Singh and he is facing trial in the instant FIR. No person has

been declared as proclaimed offender/person in the present case.

Submitted please.

Yours faithfully,

Sd/-

*(Sumit Sabharwal), PCS
Judicial Magistrate (First Class),
Gurdaspur. UID No.PB0366."*

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, voluntary and out of free will. The compromise has been found to be genuine and valid.

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

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 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 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 feel 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 what has been discussed hereinabove, this petition is allowed and FIR No.192 dated 29.10.2020 under Sections 283, 337, 338 and 427 of IPC, registered at Police Station Kalanaur, District Gurdaspur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

January 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No