

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 31.05.2022

1. CRM-M-19955-2022

Daljit Singh alias Bittu and others

... Petitioners

Versus

State of Punjab and another

... Respondents

2. CRM-M-19992-2022

Mohit @ Mohit Bhupal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.S.S.Thakur, Advocate
for the petitioners in CRM-M-19955-2022.

Mr.Umesh Sharma, Advocate
for the petitioner in CRM-M-19992-2022.

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

Ms.Nisha Rana, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This order will dispose of two criminal miscellaneous petitions
filed under Section 482 Cr.P.C. praying for quashing of FIR no.113 dated
26.06.2021 registered under Sections 323, 324, 325, 148, 149 (Section 326

IPC added later on) at Police Station Mahilpur, Gharshankar, Hoshiarpur and all other consequential proceedings arising therefrom on the basis of compromise.

The first petition, i.e. CRM-M-19955-2022 has been filed by Daljit Singh alias Bittu, Gurdeep Singh alias Gandhi and Harsh and the second petition, i.e. CRM-M-19992-2022 has been filed by Mohit @ Mohit Bhupal who is 4th accused in the FIR.

On 12.05.2022, this Court was pleased to pass the following order in CRM-M-19955-2022:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.113 dated 26.06.2021 registered under Sections 323/324/325/148/149 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station Mahilpur, Gharshankar, District Hoshiarpur (Annexure P-1) 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.

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. Anshul Sharma, Advocate appears on behalf of respondent No.2.

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. ”

On the same date, the following order was passed in CRM-M-19992-2022:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.113 dated 26.06.2021 registered under Sections 323, 324, 148, 149 of the Indian Penal Code, 1860 (Sections 325 and 326 of IPC have been added later on) at Police Station Mahilpur, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that all the persons concerned are party to the compromise.

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. Mitul Singh Rana, Advocate appears on behalf of respondent No.2.

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 pursuance to the order passed in CRM-M-19955-2022, a

report has been submitted by the Judicial Magistrate Ist Class, Garshankar.

The relevant portion of the said report is reproduced hereinbelow:-

“Point wise report as desired in CRM-M-19955 of 2020 are as follows:

i) There are total Four accused in the present FIR namely Daljit @ Bittu, Mohit (@ Mohit Bhupal, Harsh @ Harsharandeep Singh and Gurdeep Singh

ii) Accused Daljit @ Bittu Gurdeep Singh @ Gandhi and Mohit was declared as P.O but Mohit has been granted bail by the Hon'ble High Court at Chandigarh vide CRM-M No. 13885 of 2022 and accused Daljit @ Bittu and Gurdeep Singh @ Gandhi has been granted bail vide CRM-M No. 20502 of 2022.

iii) The Court is of considered opinion that the Compromise is genuine, voluntary and without any coercion or undue influence.

iv) One accused namely Gurdeep Singh @ Gandhi has been involved in other FIR bearing FIR No 52 of 2020 u/s 323,324,326 PS Chabbewal, District Hoshiarpur, the trial of which is pending in the Court of Sh. Dilbag Singh Johal, Ld. ASJ, Hoshiarpur and is pending for 07.07.2022.

v) Statement of Investigating officer is already recorded regarding number of victims/complainants in the FIR in CRM-M No. 19992 of 2020 which is a connected case.

Hence the present report is presented for the kind perusal of your goodself.

Submitted please

Yours faithfully

*(Mandeep Singh Kainth),
(D) Judicial Magistrate First Class,
Garhshankar ”*

In pursuance to the order passed in CRM-M-19992-2022, the Judicial Magistrate Ist Class, Garshankar has submitted its report and the relevant portion of the said report is reproduced hereinbelow:-

“Statement of complainant Pawandeep Singh and Statement of accused namely Mohit @ Mohit Bhupal recorded and following report is submitted:-

1. Four persons namely Daljit @ Bittu, Gurdip Singh, Mohit , and Harsh are arrayed as accused in Fir and as per statement of

investigating officer.

2. *Accused Daljit @ Bittu, Gurdeep Singh and accused Mohit @ Mohit Bhupal were declared as proclaimed offenders by the Court in this case vide order dated 07.01.2022.*

3. *The matter has been compromised between complainant and accused Mohit @ Mohit Bhupal voluntarily and out of their free will and consent and without any pressure or undue influence. The compromise appears to be genuine.*

4. *As per record, accused namely Gurdeep Singh @ Gandhi is involved in FIR No.52/2020 u/s 323, 324, 326 IPC, PS Chabbewal, District Hoshiarpur which is pending trial. Other accused are not involved in any other case.*

5. *Statement of Investigating Officer ASI Daljit Kumar is recorded and as per his statement, there is only one victim who is complainant Pawandeep Singh.*

Report is submitted please.

*(Jagmeet Singh) No.PB0394
Judicial Magistrate Ist Class
Garhshankar/19.05.2022.”*

A perusal of the above said reports would show that there are four accused and one complainant in the FIR and three accused have filed one petition, i.e. CRM-M-19955-2022 and the 4th accused has filed a separate petition, i.e. CRM-M-1999-2022 and statements of all the concerned parties have been recorded 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

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, both these

petitions are allowed and FIR no.113 dated 26.06.2021 registered under

Sections 323, 324, 325, 148, 149 (Section 326 IPC added later on) at Police Station Mahilpur, Gharshankar, Hoshiarpur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

May 31, 2022.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No