

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.203

CRM-M-22115-2022

Date of Decision: September 09, 2022

Balwinder Singh Sodhi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Vishal Deep Goyal, Advocate for the petitioner.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Simranpreet Singh, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.0232, dated 07.05.2022, under Sections 379-B, 506, 148 and 149 of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Sohana, District SAS Nagar, Mohali, and all other consequential proceedings arising therefrom on the basis of the compromise deed dated 12.05.2022 (Annexure P-2).

On 20.05.2022, this Court had passed the following order:-

“1. Notice of motion.

2. Mr. Harpreet Singh Multani, AAG, Punjab, waives service on behalf of respondent No. 1-State.

3. Mr. Simranpreet Singh, Advocate puts his appearance on behalf of respondent No. 2, and, files the power of attorney.

4. Before proceeding to quash FIR No. 0232 dated 7.5.2022, registered at Police Station Sohana, District SAS Nagar, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after summoning the petitioner,

and, respondent No. 2, and, after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the authenticity of the compromise drawn amongst them, as embodied in Annexure P-2, to make a report with respect to the compromise (supra).

5. The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; (c) whether the prosecution evidence has commenced; and (d) whether all the concerned have signed the compromise deed.

6. The afore made report be ensured to be transmitted to this Court within three weeks.

7. For the afore purpose, list on 1.9.2022.

8. In view of the compromise, in respect whereof the learned Illaqa Magistrate is directed to transmit his report to this Court, therefore, he is restrained, till further orders, from taking up any further judicial proceedings, in respect of FIR (supra).”

Pursuant to the aforesaid order, report dated 09.06.2022 has been received from the Judicial Magistrate 1st Class, SAS Nagar, Mohali.

The relevant portion of the said report is as under:-

“By considering the statements of complainant Mohan Inder Singh, Pankaj, Shinda, accused Balwinder Singh Sodhi and ASI Baljindre Singh, it is submitted that compromise between the complainant and accused is genuine, voluntary and without any coercion or undue influence and the complainant Mohaninder Singh and accused Balwinder Singh Sodhi have signed the compromise EX.C1. Further, present case is still pending at the stage of investigation and challan is yet to be presented.”

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 15-20 unknown persons along with the present petitioner and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that challan in the present case is yet to be filed.

While relying upon the judgment of Hon'ble the Supreme Court in case of ***“Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another”***, 2012(12) SCC 401, learned counsel for the petitioners contends that where there is a partial compromise with some of the accused then also the proceedings against the said accused should be quashed as the same would not even remotely result in conviction of the said accused.

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 petitioner and the complainant. 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.0232, dated 07.05.2022, under Sections 379-B, 506, 148 and 149 of

the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Sohana, District SAS Nagar, Mohali, and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

September 09, 2022
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(AMAN CHAUDHARY)
JUDGE

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