

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37950-2022

Date of decision : 30.11.2022

Rohitash Garg

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.K. S.Lakhanpal, Advocate
for the petitioners.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr.Amardeep S.Jawanda, 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. 149 dated 11.09.2021 registered under Sections 279, 337, 338, 427 IPC at Police Station Giddarbaha, District Sri Muktsar Sahib and all other consequential proceedings arising therefrom on the basis of compromise.

On 21.09.2022, this Court was pleased to pass the following order:-

“This is second petition filed under Section 482 Cr.P.C. for quashing of FIR No.149 dated 11.09.2021 registered under Sections 279/337/338/427 of the Indian Penal Code, 1860 at Police Station Giddarbaha, District Sri Muktsar Sahib and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that the

first petition was withdrawn on 10.03.2022 as compromise was not fully fructified and liberty was granted to file a fresh petition after the compromise is fully fructified. It is further submitted that now, the parties are ready to get their statements recorded before the trial Court.

Notice of motion for 10.10.2022.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Amardeep S. Jawanda, 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 10 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.*

To be heard alongwith CRM-M-37831-2022.

21.09.2022 ”

In pursuance to the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Gidderbaha. The relevant portion of the said report is reproduced hereinbelow:-

“It is further respectfully submitted that I have also personally inquired from the parties regarding the compromise between them to which they stated that they have voluntarily entered into compromise with each other and there is no pressure, coercion and undue influence.

It is further respectfully submitted that the compromise between the parties have been arrived voluntarily and the same is genuine and without any pressure or coercion and undue

influence. It is further submitted that challan in present case has not been presented.”

A perusal of the above said report would show that the petitioner and respondent nos.2 to 5 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 counsel for the petitioner has further submitted that the petitioner was not declared proclaimed offender in the present case.

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 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 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.

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. 149 dated 11.09.2021 registered under Sections 279, 337, 338, 427 IPC at Police Station Giddarbaha, District Sri Muktsar Sahib and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

November 30, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No