

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(293)

CRM-M-22096-2022

Date of decision: - 31.05.2022

Chamkor Singh and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Peeush Gagneja, Advocate,
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Kuljit Singh, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.71 dated 17.07.2021 registered under Sections 452, 506, 323, 324, 148, 149 of the Indian Penal Code, 1860 at Police Station Lakho Ke Behram, District Ferozepur (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 20.05.2022, 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.71 dated 17.07.2021 registered under Sections 452, 506, 323, 324, 148, 149 of the Indian Penal Code, 1860 at Police Station

Lakho Ke Behram, District Ferozepur (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. Kuljit Singh, Advocate appears on behalf of respondent Nos.2 and 3.

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.*

Adjourned to 05.04.2022.”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Guruharsahai to the Registrar (General) of this Court. The relevant part of the report is reproduced hereinbelow:-

“After the evaluation of the statements of the parties as well as in the investigating officer, a report on the aspects so enumerated in the order dated 20.05.22 is submitted hereunder: -

- (i) Number of persons arrayed as accused.*

On this count it was submitted by the investigating officer and by all the five accused that in the present case there are as many as 06

named accused, they being:

- 1. Chamkaur Singh s/o Bohar Singh*
- 2. Kikkar Singh s/o Arjan Singh*
- 3. Shahbaz Singh s/o Kikkar Singh*
- 4. Avtar Singh s/o Kikkar Singh*
- 5. Nishan Singh s/o Ajit Singh*
- 6. Bohar Singh s/o Arjan Singh (since deceased)*

all residents of village Toor, PS Lakho Ke Behram, Tehsil Guruharsahai, District Ferozepur. However, accused Bohar Singh s/o Arjan Singh has since deceased on 02.12.2021.

ii) Whether any accused is a proclaimed offender?

According to the statement of the investigating officer as well as joint statement of all the accused/petitioners (present in court), no accused has been declared a proclaimed offender so far.

iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.

Statements of all the accused persons/petitioners as well as respondents were recorded. Through the same, the parties stated in unison that they had entered into a compromise without any extraneous influence; coercion and on their own volition. Parties also stated that the compromise is genuine, voluntary and without any coercion or undue influence. The complainant/respondents stated in specific terms that they had no objection if the quashing proceedings filed by the petitioners/accused are accepted: Both the parties were identified by Counsel. Therefore, from the statements of parties, it is concluded that the compromise so effected between the parties is genuine, voluntary and without any coercion or undue influence.

iv) Whether the accused persons are involved in any other FIR or not.

According to the statement of the investigating officer as well as joint statement of all the accused/petitioners (present in court), the accused persons are not involved in any other FIR.

v) 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.

According to the statement of the investigating officer, ASI Tarlok Singh No.206/FZR, there is only one victim namely Bakshish

Singh son of Nawab Singh r/o Vill. Toor, PS Lakho Ke Behram, Tehsil Gurunarsahai, Distt. Ferozepur and only one complainant namely Sukhdev Singh s/o Bakshish Singh r/o Vill. Toor, PS Lakho Ke Behram, Tehsil Guruharsahai Distt.Ferozepur.

Report is submitted accordingly.

Thanking you,

Yours faithfully,

*Encls: Statements of parties
and IO*

*Lovepreet Kaur, PCS,
Judicial Magistrate 1st Class,
Guruharsahai (UID No.PB0641)”*

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, without any coercion or undue influence.

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

Learned counsel for respondents No.2 and 3 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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.71 dated 17.07.2021 registered under Sections 452, 506, 323, 324, 148, 149 of the Indian Penal Code, 1860 at Police Station Lakho Ke Behram, District Ferozepur (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

May 31, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No