

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M- 24679-2021
Decided on : 15.03.2022

Lucky Thakur @ Khokha and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Navraj Singh Mahal, Advocate
for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

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

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 15 dated 28.02.2021 registered under Sections 326, 324, 148, 149 and 120-B of the Indian Penal Code, 1860 registered at Police Station Division 4, District Police Commissionerate Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before a co-ordinate Bench of this Court on 06.07.2021, the following order was passed:-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.0015 dated

28.02.2021 registered under Sections 326, 324, 148, 149 and 120-B Indian Penal Code, 1860 at Police Station Division No.4, District Police Commissionerate Jalandhar.

Notice of motion for 24.11.2021.

At the asking of the Court, Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel.

At this stage, Mr. Rituraj Singh, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

The private parties are directed to appear before the trial Court/Illaq Magistrate on or before 02.09.2021 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 in FIR.*
- 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 case 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.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court. ”

In pursuance of the said order, a report has been submitted by the Chief Judicial Magistrate, Jalandhar to the Registrar (General) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“3. As per statements of parties i.e. respondent no. 2/complainant Arjun Ghai son of Shri Ashok Kumar and that of accused/petitioners Lucky Thakur @ Khokha, Goldi Prince @ Kalu, Manmohanm and Naresh, the compromise is genuine, voluntary and without any coercion or undue influence.

4. As per statement of Investigating Officer SI Jaspal Singh, F.I.R. no. 223 dated 20.08.2006, under Section 452, 323, 324, 34 IPC, PS Divn. No.4, Jalandhar, F.I.R. no.76 dated 05.06.2012 u/s 21/61/85 NDPS Act, PS Divn. No.4, Jalandhar and 72 dated 25.05.2012, under Section 323, 324, 452, 34 IPC were registered against accused Lucky Thakur and were decided by the Court and he was acquitted in F.I.R. no.223/2006 and convicted in F.I.R. no.72/2012 and F.I.R. no.76/2012.

He further made statement that F.I.R. no.4 dated 13.01.2012, under Section 323, 324, 506, 349 of IPC, PS Divn. No.4, Jalandhar was registered against accused Manmohan and was acquitted by the Court.

5. Statement of Investigating Officer SI Jaspal Singh has been recorded and as per his statement in the present F.I.R. only one victim/complainant is Arjun Ghai @ Shonky son of Sh. Ashok Kumar.

Photostat copies of the statements of the parties and Investigating Officer SI Jaspal Singh are attached herewith for the kind perusal of His Lordship.

Submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. The

fact that some of the petitioners are involved in other cases also, would not come in the way of quashing of the present FIR on the basis of compromise. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case.

Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

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 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, the petition is allowed and FIR No. 15 dated 28.02.2021 registered under Sections 326, 324, 148, 149 and 120-B of the Indian Penal Code,1860 registered at Police Station Division 4, District Police Commissionerate Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

March 15th, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No