

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

266

CRM-M-27364-2021
Decided on : 05.05.2022

Shamsher Singh @ Shera and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. B. S. Randhawa, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Mandeep Kaur, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 0010 dated 02.02.2021 under Sections 323, 324 and 34 of the Indian Penal Code, 1860 registered at Police Station Sekhwan, District Batala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 19.07.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conference.

By this petition, the petitioners seek quashing of FIR No.10, dated 02.02.2021, registered at Police Station Sekhwan, Police District Batala, alleging therein the commission of offences punishable under the provisions of Sections 323/324/34 of the IPC, as also all other

subsequent proceedings arising therefrom, on the basis of a compromise (Annexure P-2), arrived at between the petitioners and respondent no.2.

Notice of motion be issued to the respondents.

Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State, with Ms.Mandeep Kaur, Advocate, appearing for respondent no.2 and accepting notice. She will file a power of attorney duly executed by the said respondent in her favour in court.

A copy of the petition be supplied to them today itself by learned counsel for the petitioners.

Adjourned to 08.10.2021.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned Area Magistrate/trial Court (as the case may be) up to 24.08.2021, to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any

Sd/-
(AMOL RATTAN SINGH)
JUDGE”

“The para-wise report is as under:

1. *As per the statement of I.O. as well as parties, no other person involved in present F.I.R/case except the present petitioners/accused and the respondent/complainant.*
2. *As per the statement of parties, the compromise is without any kind of influence or pressure.*

It is pertinent to mentioned that as per the compliance of the order 19-07-2021 in CRM-M-27364-2021 whereby the Gazetted officer is directed to file the affidavit stating therein whether there are any other criminal case registered against the petitioners or like nature or otherwise. Lalit Kumar, PPS, Deputy Superintendent of Police, Sub Division City Batala filed an affidavit that as per the record of police station Sekhwan, no other criminal case has been registered against the petitioners except the present case and all the concerned parties have been impleaded as parties in the present petition.

3. *After considering the statements of the parties as well as the statement of I.O and affidavit filed by Lalit Kumar, PPS, Deputy Superintendent of Police, Sub Division City Batala, this Court is of the view that the compromise between the parties is without any kind of influence or pressure. The copies of the Adhaar Cards of the complainant/respondent person is Ex.C3 and the copies of the Adhaar Card of the petitioners/accused persons are Ex-CI and Ex.C2.*

Submitted please.”

A perusal of the above report would show that it has been stated that the statements of Complainant as well as the petitioners have been recorded in the case and they have stated that the matter has been compromised and they have no objection in case the FIR is quashed. 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 and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are 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 as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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. 0010 dated 02.02.2021 under Sections 323, 324 and 34 of the Indian Penal Code,1860 registered at Police Station Sekhwan, District Batala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 5th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No