

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27570-2022

Date of decision : 28.07.2022

Harjit Singh alias Ganja

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Daljit Kaur, Advocate for
Mr.H.P.S.Ishar, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is petition under Section 482 Cr.P.C. praying for quashing of FIR no.59 dated 11.07.2012 registered under Sections 307, 427, 120-B, 34, 147, 148, 149 IPC and Section 25-54-59 of the Arms Act at Police Station Phase-8, District Mohali and all other consequential proceedings arising therefrom on the basis of compromise.

On 29.06.2022, 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.59 dated 11.07.2012 registered under Sections 307, 427, 120-B, 34, 147, 148, 149 of the Indian Penal Code, 1860 and Sections 25-54-59 of the Arms Act at Police Station Phase-8, District Mohali (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that in the present case, initially, there were eight accused persons, out of which, four accused persons were declared to be innocent and accordingly, challan was presented against four accused persons

and out of which, one accused person i.e. Baljit Singh has been declared as proclaimed offender. It is further submitted that other two co-accused persons namely Jeewanjyot Singh @ Jugnu and Sanjeev Kumar @ Sanjeev Sharma have filed two separate petitions for quashing of FIR on the basis of compromise which have been allowed vide orders (Annexures P-3 and P-4). It is contended that no offence under Section 307 of IPC is made out against the present petitioner and has also relied upon judgment passed by the Hon'ble Supreme Court in Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012(12) SCC 401 to contend that when there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Notice of motion for 28.07.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of three weeks.

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.*

29.06.2022”

In pursuance to the said order, a report has been submitted by the Additional Sessions Judge, SAS Nagar (Mohali). The relevant portion of the said report is reproduced hereinbelow:-

accused, it is submitted that it appears that the compromise between the Complainant/victim Prabhjit Singh and accused Harjeet Singh @ Ganja the FIR No.59 dated 11.07.2012, under Sections 307, 427, 120-B, 34 IPC and Section 25-54-59 Arms Act, Police Station Phase-VIII, SAS Nagar, (Mohali) has been effected between them with their own free will, consent and without any pressure and coercion from any side and the same is genuine one.

Copies of statements of the investigating officer ASI Rakesh Kiumar, No.265/SAS Nagar, as well as the complainant/victim Prabhji Singh and accused Harjeet Singh @ Ganja and copies of compromise aadhar cards and copy of order dated 29.06.2022 passed in CRM-M-27570 of 2022 are attached herewith as per directions.

Report is submitted accordingly.

Thanking you,

Yours faithfully,

*(Avtar Singh)
Addl. District & Sessions Judge
SAS Nagar, (Mohali)''*

A perusal of the above said report would show that the petitioner and respondent no.2 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 submitted that the petitioner was not declared proclaimed offender in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioner.

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.

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.”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR no.59 dated 11.07.2012 registered under Sections 307, 427, 120-B, 34, 147, 148, 149 IPC and Section 25-54-59 of

the Arms Act at Police Station Phase-8, District Mohali and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

July 28, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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