

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48188-2017(O&M)

Date of decision : 01.12.2022

Berender Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rajiv Kataria, Advocate
for the petitioner.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr.Indresh Goyal, Advocate
for respondent no.2.

Mr. Sanjiv Ghai, Advocate
for respondent no.3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No.147 dated 16.11.2015, registered under Sections 420 and 177 IPC,
at Police Station Shambu, District Patiala, and the charge sheet dated
15.02.2017.

On 18.01.2019, a coordinate Bench of this Court was pleased
to pass the following order:-

“CRM-1623-2019

*This is an application for placing on record amended
petition.*

*For the reasons mentioned in the application, the same is
allowed subject to all just exceptions. Amended quashing petition*

is taken on record.

CRM-M-48188-2017

It is inter alia contended that lodging of FIR No.147 dated 16.11.2015 registered under Sections 420/177 IPC at Police Station Shambu, District Patiala, is gross abuse and misuse of the process of criminal law, in as much as, the said FIR has been registered on the ground that marital status was not correct and religion was also not correctly reflected. Both these grounds are non-existent. The application for passport was made on 4.9.2014, whereas the petitioner was married on 7.9.2014 and there is no column for mentioning the religion of the applicant. The estranged wife of the petitioner has got the aforementioned FIR registered only because of marital differences.

Notice of motion for 3.5.2019.

Meanwhile, further proceedings before the trial Court shall remain stayed.

(SUDHIR MITTAL)
JUDGE

18.1.2019 ”

Since the primary dispute between the present case was between the husband and wife i.e., petitioner and respondent no.3, thus, on 13.07.2022, this Court had referred the matter to the the Mediation and Conciliation Centre of this Court. On 14.11.2022, this Court was pleased to pass the following order:-

“The present petition under Section 482 Cr.P.C. for quashing of FIR No.147 dated 16.11.2015, registered under Sections 420 and 177 IPC, at Police Station Shambu, District Patiala, had been initially filed to be argued on merits, but during the course of proceedings, it has transpired that the matter has been compromised between the parties and they are ready to make their statements in support of the said compromise within a period of two weeks from today.

On request, adjourned to 01.12.2022.

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

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.*

November 14, 2022”

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

“In compliance of said orders, the parties appeared before the undersigned on 24.11.2022 for recording their statements. The statement of Complainant namely Sabina daughter of Majid Resident of House no. 26, Type-C, PGI Campus, Sector -12, Chandigarh and accused Berender Singh son of Jaimal Singh Resident of House Number 390, Part I, Dhakansu Kalan, Tehsil Rajpura, District Patiala have been recorded. After going through statements made by the said persons, this Court is of the opinion that the parties have settled their matter voluntarily, without any pressure/coercion from any quarter. The settlement between the parties has been arrived with the intervention of mediator in the Mediation and Conciliation Centre of the Hon'ble Punjab & Haryana High Court, Chandigarh. Copy of settlement/agreement dated 22.08.2022 is annexed as 'Annexure A'.

It is further submitted that there is only one accused in the present case FIR. Accused was never declared Proclaimed Offender in the present FIR. No other FIR except the present one has been registered against the accused. There is only one complainant namely Sabina in the present case FIR. No other victim or complainant is there in the present case FIR. It is pertinent to mention here that Investigating Office namely ASI Joginder Singh has been retired from the service. So, his statement was not recorded as he has been retired. The statement of ASI

Surinder Singh has been recorded to the said effect.”

A perusal of the above said report would show that the petitioner and respondent no.3 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 and respondent no.3 have jointly submitted that a coordinate Bench of this Court had in the case of ***Sandeep Kumar vs. State of Punjab and another*** passed in ***CRM-M-32771-2018*** decided on 20.01.2020 had quashed the FIR on the basis of compromise and the said FIR which was quashed, was also registered under Section 12 of the Passport Act, 1967. It is further submitted that the petitioner and respondent no.3 are husband and wife and they have parted ways and further prayer has been made that in the interest of justice, the present FIR be quashed. Learned counsel for the petitioner has handed over a draft amounting to Rs.2 lacs to the learned counsel for respondent no.3-complainant and learned counsel for the complainant has handed over the same to respondent no.3-complainant who is present in Court today and has been duly identified by her counsel.

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.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 two parties.

This Court has heard the learned counsel for the parties and has

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.”

In view of what has been discussed hereinabove, this petition is

and 177 IPC, at Police Station Shambu, District Patiala, and the charge sheet dated 15.02.2017 and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

December 01, 2022.
Davinder Kumar

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