

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-26513-2020

Date of decision : 01.11.2022

Sukhwinder Singh @ Shinda Foji

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: None.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.112 dated 28.05.2020 registered under Sections 406, 420 IPC and Section 24 of the Immigration Act, 1983 registered at Police Station Shahzadpur, District Ambala and all the subsequent proceedings arising therefrom on the basis of compromise.

On 19.07.2022, this Court was pleased to pass the following order:-

“Learned State counsel, on instructions from SI Devraj, has submitted that only respondents No. 2 to 4 are the complainant/victims in the present case and there is no other victim.

Learned counsel for the petitioner has submitted that in the present case, although there were two accused persons but however, only one accused has filed the present petition as compromise has been effected only with him and has thus, relied upon the judgment of the

Hon'ble Supreme Court titled as Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401, to contend that where 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.

List on 18.08.2022.

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."*

On 19.09.2022, this Court was pleased to pass the following order:-

"This is an application filed under Section 482 Cr.P.C. to modify the order dated 18.08.2022 in the interest of justice. Learned counsel for the applicant-petitioner has submitted that as per order dated 18.08.2022, the applicant-petitioner was to deposit the costs of Rs.5,000/- within a period of 10 days from 18.08.2022 and thereafter, two months time had been granted for recording of the statements qua the compromise. It is further submitted that the cost has been deposited, but the same has been

deposited after a delay of two days i.e., on 30.08.2022 and it has been prayed that the said delay be condoned and that the parties would now appear to get their statements recorded for which, the period as granted vide order dated 18.08.2022 still persists.

Notice of the application.

On the asking of the Court, Mr. Dhruv Sihag, AAG, Haryana, accepts notice on behalf of respondent No.1 and has submitted that he has no objection in case the delay in depositing the said cost is condoned.

Keeping in view the above, the present application is disposed of with the observation that the delay in depositing the cost of Rs.5,000/- is condoned and the parties are granted liberty to appear before the trial Court and get their statements recorded and the trial Court is further directed to record the statements of the parties with respect to the compromise as directed vide order dated 18.08.2022.”

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

“The point wise reply of the information sought by the Hon'ble High Court is as follows:

(i) It is humbly submitted that as per the FIR No.112 dated 28.05.2020, under Sections 406,420 of IPC and Section 24 of Immigration Act, 1983 and statement of Investigating Officer, ASI Ram Bhaj recorded on today, there are two (02) accused namely Makhan Labhana and Sukhwinder Singh @ Chinda in FIR No.112 dated 28.05.2020, under Sections 406,420 of IPC and Section 24 of Immigration Act, 1983.

(ii) It is further submitted that as per the statement of accused Sukhwinder Singh @ Shinda Foji, he has not been declared as proclaimed offender in any case.

(iii) It is further humbly submitted that after recording the statement of the parties, this court is of the considered view that

compromise has been executed between the parties by their free will, in sound state of mind and without any coercion or undue influence. Compromise is genuine and voluntarily.

(iv) It is further submitted that as per statement of accused Sukhwinder Singh @ Shinda Foji, he is not involved in any other FIR except present FIR.

(v) It is further submitted that Investigating Officer. ASI Ram Bhaj got recorded his statement of even date that there is one complainant namely, Balwinder Singh and two victims namely, Balwinder Singh and Yashpreet Singh in the present FIR.”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. 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. It is further stated that Rs.5000/- has been deposited and the receipt regarding the same has been produced by the petitioner before the Judicial Magistrate Ist Class, Naraingarh. It is also stated that there are two accused persons in the present case and the present petition has been filed by one accused-petitioner.

The Hon'ble Supreme Court in a case titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as ***2012 (12) SCC 401***, has held that where 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.

The Co-ordinate Bench of this Court in the judgment dated 04.07.2019 passed in CRM-M-16318-2018 titled as ***Dalip Mandal and***

another Vs. State of U.T., Chandigarh and others was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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***”, reported as ***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***”, reported as ***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.112 dated 28.05.2020 registered under Sections 406, 420 IPC and Section 24 of the Immigration Act, 1983 registered at Police Station Shahzadpur, District Ambala and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

01.11.2022

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No