

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-28921-2022

Date of decision : 29.11.2022

Gurmit Chand and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Nitin Narula, Advocate for
Mr. Sarju Puri, Advocate
for the petitioners.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr.Abhinav Singh, Advocate
for respondents no.2 to 5.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.11 dated 22.10.2020 registered under Sections 406, 420 IPC and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 at Police Station NRI, District SBS Nagar and all other consequential proceedings arising therefrom on the basis of compromise.

On 11.07.2022, 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.11 dated 22.10.2020 registered under Sections 406 and 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 at Police Station NRI, District SBS Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of

compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 10.08.2022.

On asking of the Court, Mr. Dhruv Dayal, Sr. DAG, 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 15 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.*

11.07.2022 ”

On 14.11.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioners has submitted that the petitioners have deposited the amount of Rs.5000/- as ordered by this Court vide order dated 27.09.2022. It is submitted that respondent no.2 could not appear before the trial Court and thus, prayed that one more opportunity be granted.

Learned counsel for the parties has submitted that one last opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 29.11.2022.

All the parties concerned including respondent no.2 are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 days 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 orders, a report has been submitted by the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar. The relevant portion of the said report is reproduced hereinbelow:-

“(a) that two accused persons namely Gurmit Chand and Jeevan Kumar have been arraigned as accused in the present case;
b) that no accused has been declared as proclaimed person in the present case. However, accused Jeevan Kumar has been kept in column no.2 of the challan, as he was not arrested during the investigation of the case by the police;
c) that on the basis of statements suffered before this Court by the parties, this Court is of the considered view that the compromise entered between the parties i.e. victims Amarjit Singh, Paramjit Kaur, Vinod Kumari Sharma and Kuldeep Singh and accused Gurmit Chand and Jeevan Kumar (through attorney Gurmit Chand) is genuine, voluntary and without any coercion or undue influence. The compromise is not the result of any fraud or misrepresentation and is the result of free Will of the parties.

xxx xxx xxx

e) that as per the statement suffered by IO/ASI Bachittar Singh, there are four victims namely Amarjit son of Surjit Ram, Paramjit Kaur, Vinod Kumari Sharma and Kuldeep Singh in the present case. Out of these persons, the complaint to the police was filed by Amarjit son of Surjit Ram. ”

A perusal of the above said report would show that the compromise in the present case has been found to be voluntarily, without

any coercion or undue influence.

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

Learned counsel for respondent nos.2 to 5-complainant and victims 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 parties. He prayed that FIR and subsequent proceedings may be quashed.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the victims. 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 feel that the same was 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, this petition is allowed and FIR No.11 dated 22.10.2020 registered under Sections 406, 420 IPC and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 at Police Station NRI, District SBS Nagar and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

November 29, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No