

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.269

CRM-M-32310-2021

Date of Decision: September 29, 2022

Kashmira Singh and others

...Petitioners

0Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sanjeev Kumar Bawa, Advocate for the petitioners.

Mr. P.S. Pandher, AAG, Punjab.

Mr. Rakesh Kumar, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.001, dated 02.01.2019, under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC, registered at Police Station NRI, Jalandhar Rural, District Jalandhar and all other consequential proceedings arising therefrom on the basis of the compromise.

Notice of motion in this case was issued on 01.11.2021 and vide order dated 14.02.2022, both the parties were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise. The trial Court was also directed to submit its report accordingly.

Pursuant to the aforesaid order, report dated 04.03.2022 was received from the Judicial Magistrate 1st Class, Jalandhar to the effect that parties could not appear to get their statements recorded. Thereafter,

this Court vide order dated 20.04.2022, the parties were again directed to appear before the Illaqa Magistrate to get their statements recorded with regard to the genuineness of the compromise. Pursuant thereto, report dated 20.07.2022 has been received from the Judicial Magistrate 1st Class, Jalandhar. A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed and the compromise effected between them is genuine, without any undue influence and coercion. It is also revealed from the report that the statements of accused Amrik Singh, Kashmira Singh, and complainant Balbir Singh have been recorded through their power of attorney. There are six accused in the present FIR out of whom accused Sarwan Singh is stated to have died and proceedings qua accused Jagir Singh stand abated vide order dated 14.01.2020. It is also stated in the report that the charges have not yet been framed.

The statements of the parties with regard to the compromise have been recorded through power of attorney, learned counsel for the petitioner has placed reliance on the judgments of co-ordinate Benches of this Court in case of ***“Kuldip Singh Jaswal and others vs Jaspal Singh and another”*** (CRM-M-12551-2012, decided on 03.09.2015) and in case of ***“Asheesh Kumar Sharma vs Rajesh Gupta”*** (CRM-M-14752-2009 decided on 14.08.2013).

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner(s) and the complainant(s). Since the matter has been settled and the parties have decided to live in peace, this Court is of the view that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

It is apposite to refer to a judgment of Division Bench of this Court in case of ***“Mangal Dass Gautam and anotehr vs State of Haryana & another”*** reported as 2020(2) R.C.R. (Criminal) 382. The relevant paragraphs of the said judgment are as under:

“25. A person, who is infirm and unable to move about, has also the same right like others to sue and defend himself/herself for his/her cause in the Courts etc, but due to aforesaid infirmity, it is not possible for him/her, sometimes, to do the same in person, then a need arises to depute someone to defend the cause on his/her behalf by giving self intention and willingness/authority to a person to do on his/her behalf in the form of Power of Attorney.

26. Likewise, a person who is settled abroad/residing far away from the jurisdiction of Court where his/her cause is to be settled/decided, and is unable to sue/defend himself/herself for any cause pending in the Courts of Law, due to the reasons of health, residing far away from that place, there also a need arises to sue/defend himself/herself through some person of good-faith by giving willingness, intention or desire executing a authoritative instrument in favour of such person to work on behalf of such executant.”

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 view 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 the above, the petition is allowed and FIR No.001, dated 02.01.2019, under Sections 419, 420, 465, 467, 468, 471 and 120-B

of IPC, registered at Police Station NRI, Jalandhar Rural, District Jalandhar and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

September 29, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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