

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-28354-2022

Date of decision : 28.07.2022

Lakha Ram Davesar and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Gaurav Singh Rana, Advocate
for the petitioners.

Mr.Sukhbeer Singh, AAG, Punjab.

Ms.Varsha Sharma, Advocate
respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.0110 dated 07.08.2021 registered under Sections 406, 420, 120-B IPC at Police Station Amloh, District Fatehgarh Sahib and all other consequential proceedings arising therefrom on the basis of compromise.

On 07.07.2022, 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.110 dated 07.08.2021 registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 at Police Station Amloh, District Fatehgarh Sahib (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 28.07.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Ms. Varsha Sharma, Advocate appears on behalf of respondent No.2.

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.*

07.07.2022 ”

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

“ 7. It is further humbly submitted that:

- (i) As per the the statement of complainant/victim and Investigating officer ASI Pawan Kumar, no 158/FGS, in the FIR No.110 dated 7.8.2021 under Sections 406/420/120B IPC P.S. Amloh, there are only three accused persons namely Lakha Ram Davasar son of Mangal Ram, Lalika @ Ramla Davasar wife of Lakha Ram Davasar and Konica Devesar @ Kanika @ Kannu daughter of Lakha Ram Davasar, have been arrayed as accused.*
- (ii) None of the accused has been declared as Proclaimed Offender in the present FIR, as per the statement of IO;*
- (iii) From the statements of the parties, it seems that the compromise between the complainant/victim and accused persons is genuine, voluntarily and without any coercion or undue influence.*

(iv) As per the statement of IO ASI Pawan Kumar No.158/FGS, accused persons namely Lakha Ram Davasar son of Mangal Ram and Lalika @ Ramla Davasar wife of Lakha Ram Davasar are involved in FIR No.31 dated 16.3.2019 Under section 406/420/120B IPC PS Amloh.

Accused person namely Konica Devesar @ Kanika @ Kannu daughter of Lakha Ram Davasar is not involved in any other FIR.

(v) As per the statement of IO ASI Pawan Kumar no.158/FGS, in the present case there is only one complainant/victim namely Kashmira Singh.

8. The complainant/victim namely Kashmira Singh and accused person namely Lakha Ram Davasar son of Mangal Ram, Lalika @ Ramla Davasar wife of Lakha Ram Davasar and Konica Devesar @ Kanika @ Kannu daughter of Lakha Ram Davasar have no objection if the above said FIR and the consequential proceedings are quashed against the above said accused persons in view of the compromise entered into between the parties.

9. This is for your kind information, please.

Thanking you.

Yours faithfully,

*Gurinder Singh
Civil Judge (Junior Division)-cum-
Judicial Magistrate 1st Class,
Amloh (PB0487) ”*

A perusal of the above said report would show that the petitioners 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 petitioners has submitted that the petitioners were not declared proclaimed offenders 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 petitioners.

Learned counsel for respondent no.2 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 perused the file.

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***”, 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.0110 dated 07.08.2021 registered under Sections 406, 420, 120-B IPC at Police Station Amloh, District Fatehgarh Sahib and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 28, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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