

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-28414-2022

Date of decision : 28.07.2022

Khushwinder Singh alias Khushwinder Singh Aulakh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Munish Raj Chaudhary, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Ms.Rosy, Advocate for
Mr.V.P.S. Mithewal, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is petition under Section 482 Cr.P.C. praying for quashing of FIR no.0032 dated 15.04.2018 registered under Sections 336, 427, 148, 149 IPC and Sections 25, 27 of the Arms Act, 1959 (Section 452 IPC added later on) at Police Station Kotbhai, District Sri Muktsar 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.32 dated 15.04.2018 registered under Sections 336, 427, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 (Section 452 of IPC has been added later on) at Police Station Kotbhai, District Sri Muktsar Sahib (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of

compromise.

Learned counsel for the petitioner 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 Mr. V.P.S. Mithewal, 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, Gidderbaha. The relevant portion of the said report is reproduced hereinbelow:-

“ The point wise report as called is as follows:-

- 1. Seven persons by name including present petitioner and 6-7 unknown persons are arrayed as accused in the present FIR.*
- 2. As per the statement of Investigating Officer, none of the accused has been declared proclaimed offender.*
- 3. In the given circumstances, I am satisfied that compromise has been effected between complainant and accused Khushwinder Singh Khushwinder Singh Aulakh amicably, with their free consent, without any pressure and the same appears to be genuine, voluntary and without any coercion or undue influence and they got their statements recorded before the Court voluntarily and*

without any pressure.

4. As per statement of Investigating Officer, one other FIR bearing No. 31 dated 03.08.2018 under Section 307, 148, 149 IPC, PS Gidderbaha has been registered against accused Gurlal Singh. None of the other accused except Gurlal Singh is involved in any other FIR.

5 As per statement of Investigating Officer, Veervinder Singh who is respondent no.2 in the petition before Hon'ble High Court, is the only victim/aggrieved person of the present FIR.

The copies of the statements are attached herewith.

Report is submitted for His Lordships kind perusal.

Submitted please.

Yours faithfully,

(Ekta)

(Unique Identity Code: PB0463)

*Judicial Magistrate First Class,
Gidderbaha."*

A perusal of the above said report would show that the petitioner 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 petitioner has submitted that the petitioner was not declared proclaimed offender in the present case.

Learned counsel for the petitioner and respondent no.2 submit that in the present case there are 7 named persons and 6-7 unknown persons and the compromise has been effected with the present petitioner and submit that the present case is a case of partial compromise. Learned counsel for the petitioner has 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

even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon 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*** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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

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 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.”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR no.0032 dated 15.04.2018 registered under Sections 336, 427, 148, 149 IPC and Sections 25, 27 of the Arms Act, 1959 (Section 452 IPC added later on) at Police Station Kotbhai, District Sri Muktsar Sahib and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

July 28, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No