

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(275)

CRM-M-25399-2019 (O&M)

Date of decision: - 25.07.2022

Harjit Singh @ Happy and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. K.S. Dadwal, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Jagdeep Singh, Advocate
for Ms. Palak Rana, Advocate,
for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-7974-2020

This application has been filed under Section 482 Cr.P.C. for
placing on record affidavit of respondent No.2 dated 30.01.2020.

Application is allowed, as prayed for. Copy of compromise
affidavit dated 30.01.2020 is taken on record, subject to all just
exceptions.

CRM-M-25399-2019

This is a petition filed under Section 482 Cr.P.C. for

quashing of FIR No.76 dated 05.05.2019, registered under Section 379-B IPC, at Police Station Sadar, District Hoshiarpur and all the subsequent proceedings arising therefrom on the basis of compromise.

On 30.05.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“The present petition has been filed for quashing of FIR No.76 dated 05.05.2019 registered under Section 379-B of IPC at Police Station Sadar, District Hoshiarpur and all subsequent proceedings on the basis of compromise.

Notice of motion.

On asking of the Court, Mr. K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State. Ms. Palak Rana, Advocate accepts notice on behalf of the complainant-respondent No. 2. Learned counsel for the petitioner(s) is directed to hand over a copy of the petition to the opposite counsels during the course of the day.

Let the parties now appear before the Trial Court/Illaq Magistrate on 17.07.2019 or any other date convenient to the Court for recording their statements with regard to compromise. The Trial Court/Illaq Magistrate is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Trial Court/Illaq Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal proceedings are pending against either of the parties or not, before the next date of hearing.

Adjourned to 20.09.2019.

(RAJBIR SEHRAWAT)
JUDGE

30th May, 2019”

In pursuance of the said order, the report has been submitted by the Additional Chief Judicial Magistrate, Hoshiarpur, to the Registrar General of this Court. The relevant part of the report is reproduced

hereinbelow:-

“It is to bring to the kind notice of your goodself that before recording the statement of complainant Anjali Joshi, she was specifically asked as to whether she has compromised the matter voluntarily with the accused persons, upon which the complainant started weeping. At that time all the three accused were present in the court itself. To rule out the positivity of fear/threat, pressure, all the accused were ordered to go out of the court room as the undersigned felt that complainant was under some threat/pressure. The complainant was again asked to disclose if she is having any pressure/undue influence from any corner but the complainant Anjali Joshi stated that there is no pressure upon her but she is widow lady and she want to live a peaceful life with her children. When specifically asked that what compromise has been effected with the accused persons, the complainant did not speak even a word and kept mum. Thus, from the act and conduct of the complainant Anjali Joshi it appears to the undersigned that though the matter is stated to be compromised vide compromise Ex.PX but the complainant Anjali Joshi is not even aware of the contents of the compromise. Therefore, it appears that the compromise Ex.PX is not genuine and the same appears to be result of some threat, undue influence or pressure.

The report is submitted please, along with statements of parties for further proceedings.

Thanking you,

Yours faithfully,

Dated: 19.7.2019.

*(Monica Sharma),
Addl. Chief Judicial Magistrate,
Hoshiarpur.
(UID PB 0239)”*

A perusal of the said report would show that although, the complainant has stated that there was no pressure upon her, but on account of her having kept mum about the factum of compromise between the parties, the report had been submitted with the conclusion that the same is not genuine.

Respondent No.2 has placed on record a detailed affidavit by way of CRM-7974-2020. The contents of the said affidavit are reproduced herein below: -

"1. That the deponent has got recorded FIR No.76 dated 05.05.2019 under section 379-B IPC registered at Police Station Sadar, District Hoshiarpur against the unknown persons, however, subsequently in the aforesaid FIR, I was informed by the police that some boys have been nabbed at Police naka. The police have informed to deponent that Harjit Singh @ Happy son of Dev Raj, Pankaj @ Vinay son of Prem Lal and Ravi Kumar @ Ravi son of Baldev Singh have been nabbed by them at 09:10 PM. The other boy namely Ravi Kumar @ Ravi was nabbed at Naka at 08:47 PM, therefore, I was called to identify them. Since, all the boys were nabbed at night, therefore, though at the time of identification, from the physical appearance, they appeared to be same persons, who have snatched the purse from me, but I was not sure that these boys have committed the offence and regarding this, I have also informed to police, however, on the basis of the identification, the police has got recorded my statement and involved the Harjit Singh @ Happy son of Dev Raj, Pankaj @ Vinay son of Prem Lal and Ravi Kumar @ Ravi son of Baldev Singh in the aforesaid FIR.

2. That thereafter, the parents of Harjit Singh @ Happy son of Dev Raj, Pankaj @ Vinay son of Prem Lal and Ravi Kumar @ Ravi son of Baldev Singh approached the deponent and shown the photographs of the boys involved in the aforesaid FIR. Apart from this I have also seen the boys, when they were produced in the court and after seeing them, I found that these are not the same boys, who have snatched the purse from me on 05.05.2019.

3. That thereafter, I informed to the police that these boys have not snatched the purse from me on the date of the occurrence, but nobody heard me and now I am feeling disturbed as due to the wrong identification, on my statement the innocent boys have been put behind the bars.

4. That even the parents of the boys have also offered compensation amount to me, but I refused the same as the boys have been involved in the present case due to the mistaken identity.

Therefore the deponent has no grudge against Harjit Singh @ Happy son of Dev Raj, Pankaj @ Vinay son of Prem Lal and Ravi Kumar @ Ravi son of Baldev Singh because they have not committed the offence regarding which the FIR No.76 dated 05.05.2019 under section 379-B IPC was registered at Police Station Sadar Hoshiarpur. Further deponent has no objection if FIR No. 76 dated 05.05.2019 under section 37-B IPC registered at police station Sadar Hoshiarpur against the Harjit Singh @ Happy son of Dev Raj, Pankaj@ Vinay son of Prem Lal and Ravi Kumar @ Ravi son of Baldev Singh be quashed.

5. *That since, the persons nominated as accused in the FIR have not committed any offence, therefore, I have entered into a compromise dated 27.05.2019 with the said accused persons through their parents, which was entered with my free will and consent and on the basis of said compromise, CRM-M 25399 of 2019 was filed by the accused persons in the Hon'ble High Court, wherein deponent has also appeared through counsel and in pursuance to the order dated 30.05.2019, all the accused persons and the deponent had got recorded the statement owning the contents of the compromise, however, after recording the statement, it came to light of the deponent that the Magistrate has sent the report to the Hon'ble High Court by observing that it seems that the deponent had recorded her statement under pressure.*

6. *That the deponent submits that as already mentioned in the compromise dated 27.05.2019, the aforesaid FIR has been registered against the accused persons mentioned in the FIR due to the mistaken identity and it seems that due to oversight of the fact, the Ld. Magistrate has given observation regarding the pressure upon the deponent, otherwise the deponent owns the contents of the compromise dated 24.05.2019 as well as the statement recorded before the Ld. Magistrate. The deponent further undertakes that she has recorded the statement before the Ld. Magistrate voluntarily and no pressure was being exercised upon her.*

CHANDIGARH

DATED:-30.01.2020

Deponent"

Learned counsel appearing for respondent No.2 has also stated that the said affidavit is genuine and bona fide and has reiterated

the fact that respondent No.2 has entered into the compromise after understanding the contents of the same and without any undue influence or coercion and has prayed to this Court that the present FIR 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. 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. XXX---XXX”

Keeping in view the above-said facts, more so, the subsequent affidavit as well as stand of respondent No.2, this Court is of the opinion that the compromise is genuine and thus, the present petition is allowed and FIR No.76 dated 05.05.2019, registered under Section 379-B, at Police Station Sadar, District Hoshiarpur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 25, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No