

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31337-2022

Date of decision:29.08.2022

Shiv Kumar Chauhan

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sahil Khunger, Advocate for the petitioner.

Mr. Vikas Arora, AAG, Punjab.

Mr. Parveen Sharma, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.208 dated 10.12.2017 registered under Sections 447/427/506/511/120-B of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 21.07.2022, 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.208 dated 10.12.2017 registered under Sections 447/427/506/511/120-B of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (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 10.08.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the

respondent-State and Mr. Parveen 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.*

(VIKAS BAHL)

21.07.2022

JUDGE”

In pursuance of the said order, the report has been submitted by Judicial Magistrate 1st Class, Jalandhar to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“xxx xxxx xxxx

4. After recording the statement of parties and IO as above the report as per order of Hon'ble High Court is as follows:

- (i) There are two accused persons in present FIR i.e. Bharat Bhushan Chauhan and Shiv Kumar Chauhan. As per statement of IO/ASI Avtar Singh no.1614/Jal. accused Bharat Bhushan has died.*
- (ii) No accused of this FIR is proclaimed offender.*
- (iii) From the statement of complainant Suraj Parkash Chauhan and accused Shiv Kumar Chauhan, I am satisfied that compromise between the parties is genuine, valid, voluntary and without any coercion or undue influence from any quarter*
- (iv) xxx xxxx*
- (v) As per statement of IO/ASI Avtar Singh no.1614/Jal. there is only one complaint/victim in present case i.e. Suraj Parkash Chauhan.*
- 5. Original statements of complainant, accused and IO*

are being sent herewith, as desired by the Hon'ble High Court.

Submitted please.

Yours faithfully,

*(Ramandeep Kaur)
Judicial Magistrate 1st Class
Jalandhar, UID No.PB-0543”*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntary and without any pressure.

A perusal of the report would also show that there are two accused persons i.e. petitioner and one Bharat Bhushan Chauhan and the said Bharat Bhushan Chauhan is stated to have died.

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 against the said petitioner/accused should be quashed as the same would not 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-16318-2015** 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 petitioner only although, the matter had not been compromised between all the parties.

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 parties.

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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.208 dated 10.12.2017 registered under Sections 447/427/506/511/120-B of the Indian Penal Code, 1860 at Police Station Division No.5, District Jalandhar (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 29, 2022
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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No