

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M-27935-2020 (O&M)

Decided on : 28.02.2022

Harvinder Kaur and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Sandeep Sharma, Advocate
for the petitioner.

Mr. H. S. Multani, AAG, Punjab.

Mr. Parminder Singh, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 54 dated 30.10.2019 under Sections 307, 506, 452, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Handesra, District SAS Nagar, Mohali (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before this Court on 10.01.2022, the following order was passed:

“CRM-92-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case from 17.01.2022 to an early date.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Parminder Singh, Advocate appears on behalf of respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 17.01.2022 to today.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and date of hearing in the main case is preponed from 17.01.2022 to today and is taken up on Board today itself.

CRM-122-2022

This is an application filed under Section 482 of Cr.P.C. for grant of another opportunity to the applicant/petitioners for getting their statements recorded before the Chief Judicial Magistrate/Illaq Magistrate/Trial Court in compliance of order dated 18.11.2021 (Annexure A-1).

Learned counsel for the applicant-petitioners has submitted that the parties could not record their statements and seeks one more opportunity to record their statements and for the said purpose, seeks 30 days time.

In view of the above, the present application is allowed and the parties are again directed to appear before the Illaq Magistrate/trial Court for recording their statements qua compromise within a period of 30 days from today.

The Illaq 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.*

Main case

List this matter on 28.02.2022 for awaiting the report of the concerned Illaqa Magistrate/trial Court. ”

In pursuance of the said order, a report has been submitted by the Civil Judge (Jr. Divn.), Dera Bassi to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Statements of complainant Hardeep Singh and that of accused persons namely Harvinder Kaur, Balkar Singh, Gurvinder Singh, Jarnail Singh and Lakwindro @ Labho @ Lakhwinder Kaur @ Kulwinder Kaur as well as Investigating Officer SI Manish Kumar No. 53/PR, PS Handesra of the present case were recorded and following report is submitted:-

1. *As per record and statement of Investigating Officer, there are total five accused persons named above.*
2. *None of the accused has been declared as proclaimed person or proclaimed offender by the court in this case till date.*
3. *The matter has been compromised between complainant/victim and accused persons voluntarily and out of their free will and consent and without any pressure or undue influence.*
4. *As per record and as per statement of Investigating Officer SI Manish Kumar No.53/PR, PS Handesra, parties are not involved in any other case/ FIR.*

5. As per statement of Investigating Officer SI Manish Kumar No. 53/PR, PS Handesra, there is only one complainant/victim in the present case. Report is submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners and learned counsel for respondent No. 2 have submitted that the present case is arising out of a matrimonial dispute inasmuch as the petitioner No. 1 is the wife of respondent No. 2 and by virtue of the compromise, they have settled their dispute. It is further submitted that the respondent No. 2 had allegedly been injured but there is no opinion of the Doctor declaring the injuries suffered by respondent No. 2 to be dangerous to life and thus, in the said circumstances, Section 307 would not be made out. It is further submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other FIR.

Learned counsel for the State, as per instructions, has stated that these facts are correct.

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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 54 dated 30.10.2019 under Sections 307, 506, 452, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Handesra, District SAS Nagar, Mohali (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of, in view of the abovesaid order.

February 28th, 2022

Mehak

(VIKAS BAHL)

JUDGE

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