

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

288

CRM-M-30705-2022(O&M)
Date of decision : 17.08.2022

MALWINDER SINGH AND ANR

... Petitioners

Versus

STATE OF PUNJAB AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. V.S. Anand, Advocate for
Mr. Gaurav Singla, Advocate
for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Ms. Neelkamal, Advocate
for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.20 dated 02.05.2021 registered under Sections 278, 285 and 427 of the Indian Penal Code at Police Station Dharamgarh, District Sangrur (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 08.07.2022 (Annexure P-2).

On 18.07.2022, 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. 20 dated 02.05.2021 registered under Sections 278, 285 and 427 of the Indian Penal Code, 1860 at Police Station Dharamgarh, District Sangrur (Annexure P-1) and subsequent proceedings arising therefrom on the basis of compromise. Notice of motion for 17.08.2022. On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the

respondent-State and Ms. Neelkamal, Advocate appears on behalf of respondent No. 2 and filed her power of attorney, the same is taken on record. The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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.*

18.07.2022 ”

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

“After going through the statements given by complainant Tarinder Singh, accused persons namely Malwinder Singh and Maghar Singh and Investigating Officer ASI Gursewak Singh, No.2537/SGR P.S.Dharamgarh in the Court, the following information as desired by your goodself vide order dated 18.07.2022 as under:

- 1. Two persons namely Malwinder Singh and Maghar Singh have been arrayed as accused in the present FIR.*
- 2. None of the accused person has been declared proclaimed offender in the present FIR.*
- 3. The compromise is genuine, voluntary and without any coercion or undue influence.*

4. Accused namely Malwinder Singh and Maghar Singh are not involved in any other FIR.

5. As per statement of complainant Tarinder Singh, accused persons namely Malwinder Singh and Maghar Singh and IO ASI Gursewak Singh, there is only one victim i.e. complainant Tarinder Singh and two persons namely Malwinder Singh and Maghar Singh have been arrayed as accused in the present case.

This report along with statements of parties and annexures is submitted as desired by your goodself vide order dated 18.07.2022 passed in CRM-M-30705-2022.

Yours faithfully

*(Lovejinder Kaur), PCS,
Judicial Magistrate 1st Class,
Sunam/UID No.PB0437.”*

A perusal of the above said report would show that the compromise in the present case has been found to be voluntarily, without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they were not declared proclaimed offender in the present case.

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

Learned counsel for respondent no.2-complainant 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. He prayed that FIR and subsequent proceedings may 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 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 feel that the same was 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.20 dated 02.05.2021 registered under Sections 278, 285 and 427 of the Indian Penal Code at Police Station Dharamgarh, District Sangrur (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 08.07.2022 (Annexure P-2) are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

17.08.2022
Amandeep

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