

269

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-31116-2022

Date of decision : 18.08.2022

Kewal Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep S. Majithia, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.100 dated 09.04.2017 registered under Sections 447/448/34 of the Indian Penal Code, 1860 (Section 456 of IPC has been added later on) at Police Station Sadar Amritsar, District Police Commissionerate, Amritsar and all the subsequent proceedings arising therefrom on the basis of compromise.

On 20.07.2022, this Court had passed the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.100 dated 09.04.2017 registered under Sections 447/448/34 of the Indian Penal Code, 1860 (Section 456 of IPC has been added later on) at Police Station Sadar Amritsar, District Police Commissionerate, Amritsar and all the subsequent proceedings arising

therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 18.08.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Lovish Rattan, Advocate appears on behalf of respondent Nos.2 and 3.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of two weeks.

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.”*

In pursuance of the abovesaid order, a report has been submitted by the Additional Chief Judicial Magistrate, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“Following is the requisite information, as directed:-

- 1. That as per statement of IO SI Jagbir Singh and as per Court record, four persons i.e. Kewal Singh, Surjit Singh, Jagir Singh and Nishan Singh, are arrayed as accused in present FIR.*

2. *That as per statement of IO SI Jagbir Singh, none of the accused is ever declared Proclaimed Offender.*

3. *That the compromise effected between complainant/aggrieved and accused person is genuine, voluntary, out of free will and without any coercion or undue influence.*

4. *As per statement of IO SI Jagbir Singh, there is no other FIR registered against any of the abovesaid accused in Police Station Sadar, Amritsar.*

5. *That as per statement of Investigating Officer SI Jagbir Singh and as per Court record, Ashwani Kumar was the only victim/complainant in present FIR, who has died on 02.12.2019 and after his death, Mamta Rani, wife and Deepak Kumar, son, of deceased complainant, respondents No.2 and 3 in CRM-M-31116 of 2022, are the only legal heirs of the deceased.*

Submitted please.

*Sd/- (Jaapinder Singh),
Additional Chief Judicial Magistrate,
Amritsar”*

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the LRs 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 has submitted that the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against the petitioners. 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 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**”, reported as **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**”, reported as **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.100 dated 09.04.2017 registered under Sections 447/448/34 of the Indian Penal Code, 1860 (Section 456 of IPC has been added later on) at Police Station Sadar Amritsar, District Police Commissionerate, Amritsar and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

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

18.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No