

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31205-2022

Date of decision:31.08.2022

Major Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Arora, Advocate for the petitioners.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

Mr. Parminder Singh Kanwar, 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.87 dated 04.09.2021 registered under Sections 452, 323, 427, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Chohla Sahib, District Tarn Taran (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.87 dated 04.09.2021 registered under Sections 452, 323, 427, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Chohla Sahib, District Tarn Taran (Annexure P-1) 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 17.08.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Parminder Singh Kanwar, 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 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.*

*(VIKAS BAHL)
JUDGE”*

21.07.2022

In pursuance to the said order, a report has been submitted by Judicial Magistrate 1st Class, Tarn Taran. The relevant portion of the said report is reproduced hereinbelow:-

“In this regard, separate statements of complainant/ Respondents Hira Singh S/o Gian Singh R/o Village Warian Nave, Tehsil and District Tarn Taran and accused/petitioners namely Major Singh S/o Bara Singh R/o Village Raniwalah, Tehsil and District Tarn Taran, Sohan Singh S/o Buta Singh, Harmaldeep Singh s/o Surinder Singh, Harjeet Singh s/o Major Singh, Davinder Singh s/o Baldev Singh, Jugraj Singh s/o Sahib Singh, Nirvair Singh s/o Didar Singh all residents of Village Warian Nave, Tehsil and Distt. Tarn Taran are recorded wherein, it has been stated by the complainant/ respondents and the accused/petitioner that matter has been compromised between them with the intervention of respectable persons. They have entered into compromise without any coercion, undue influence, threat, promise, pressure etc. of any kind.

xxx xxx

- 3. The compromise between the parties to the petition is genuine, voluntarily and out of free will”
Report submitted, please.*

*(Etu Sodhi), PCS,
Judicial Magistrate 1st Class,
Tarn Taran 16.08.2022”*

A perusal of the above said report would show that the petitioners, complainant/respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offenders in the present case.

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

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 two parties.

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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.87 dated 04.09.2021 registered under Sections 452, 323, 427, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Chohla Sahib, District Tarn Taran (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

August 31, 2022
Ishwar Singh

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No