

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31438-2022

Date of decision : 16.08.2022

Raudransh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Anil Kumar Spehia, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.B.S.Bajwa, 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.21 dated 11.03.2022 registered under Sections 279 and 427 of the Indian Penal Code, 1860 at Police Station Satnampura, District Kapurthala, Punjab (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.21 dated 11.03.2022 registered under Sections 279 and 427 of the Indian Penal Code, 1860 at Police Station Satnampura, District Kapurthala, Punjab (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 16.08.2022.

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

21.07.2022”

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

“ Therefore report of the undersigned is as under:-

- 1. There is only one person namely Raudransh was arrayed as accused in the present FIR.*
- 2. The accused/petitioner was not declared as proclaimed offender in the present FIR.*
- 3. Yes, the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. The accused / petitioner is not involved in any other FIR.*
- 5. As per statement of the Investigation officer, there is only one victim / complainant in the present FIR.*

The report is accordingly submitted please.

Thanking you,

Yours faithfully,

Encls: Statements of parties.

Renuka Kalra

*Judicial Magistrate Ist Class
Phagwara*

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

Learned counsel for the petitioner and learned counsel for respondent no.2 have pointed out that in the present case, respondent no.2 has executed a special power of attorney in favour of Ankur Sharma and in the said power of attorney, specific reference has been made to the present FIR and said Ankur Sharma has been given the authority to compromise the present matter and also to get the said FIR quashed. A photocopy of the said power of attorney has been handed over to the Court by learned counsel for respondent no.2 and the same is taken on record as 'Mark A'. The relevant portion of the said power of attorney is reproduced hereinbelow:-

“KNOW ALL MEN BY THESE PRESENTS THAT I, Navraj Hans, son of Sh. Hans Raj Hans, R/o H. No. 30-A, Link Road, Model Town, Jalandhar, Punjab, India do hereby appoint, nominate and constitute, Sh. Ankur Sharma son of Ashok Kumar Sharma resident of H. No. 493-L, Model Town, Jalandhar Punjab, India, as my Special power of attorney for the following purpose: -

WHEREAS an FIR bearing No.21 Dated 11.03.2022 under Sections 279/427 of IPC has been registered against Raudransh S/o Sh. Rakesh Mehta, R/o H. No.513, Mohan Vihar, Ladhewali, Jalandhar by the police of P.S. Satnampura, Phagwara, District Kapurthala.

Whereas I am citizen of India and I use to go out of Punjab for my business purpose i.e. shooting of movies, etc. Therefore, I hereby appoint, nominate and constitute my attorney to undertake the following acts, deeds etc. on my behalf and my attorney is fully conversant with the facts of the case:-

1. To compromise the matter with the accused Raudransh S/o Sh. Rakesh Mehta on my behalf and also to file, sign, verify and to

prosecute the applications/petitions on my behalf for the purpose of quashing of the above said FIR and for quashing of any other proceedings arising out of the said FIR on my behalf in any court of law including the Hon'ble High Court of Punjab and Haryana and Hon'ble Supreme Court of India.

xxx xxx xxxxx

In witnesses whereof I have put my signature on this Special Power of Attorney in the presence of the following marginal witnesses;

Witnesses:

Executant

Sd/-

Navraj Hans”

Learned counsel for the petitioner has further submitted that the petitioner was not declared proclaimed offender 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 petitioner.

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***”, 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.”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR No.21 dated 11.03.2022 registered under Sections 279 and 427 of the Indian Penal Code, 1860 at Police Station Satnampura, District Kapurthala, Punjab and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 16, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No