

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(265)

CRM-M-29673-2020

Date of decision: - 22.09.2022

Samrat and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Ambika, Advocate
for Mr. Shvetanshu Goel, Advocate
for the petitioners.

Mr. Iqbal Singh Mann, DAG, Punjab.

Mr. Abhinav Aggarwal, 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.94 dated 24.08.2020, registered under Sections 336, 506, 148 and 149 IPC and Sections 25 & 27 of the Arms Act, registered at Police Station Daba, Police Commissionerate, Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise.

On 06.09.2022, this Court was pleased to pass the following order:-

“ Learned counsel for the petitioners has submitted that petitioner has deposited Rs.5,000/-, as ordered by this Court, vide order dated 28.07.2022.

Learned counsel for the petitioners has submitted that one last opportunity be granted to the parties to get their statements recorded

before the Illaqa Magistrate/trial Court.

Adjourned to 22.09.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days from today.

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.*

However, since the statement of the parties could not be recorded before the Illaqa Magistrate/trial Court in spite of the direction given vide order dated 28.07.2022, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioner in the 'Bar Clerks Association, Punjab and Haryana High Court, Chandigarh', within a period of 15 days from today.

The trial Court shall only record the statements of parties on production of receipt of said payment.

It is made clear that if the said amount is not deposited within the stipulated period of time, then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)

JUDGE

September 06, 2022”

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Ludhiana, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

"It is further respectfully submitted that statements of complainant/respondent No.2 namely Sunny s/o Gaj Raj r/o 1106 Block C. Giaspura, Flat Police Station. Daba, Ludhiana and petitioners/accused No.1 namely Samrat s/o Sushil Kumar r/o House No.40, Shaheed Bhagat Singh Nagar, Rajguru Nagar, Ludhiana and petitioner/accused No.2 namely Ankur @Aditya s/o Manoj Kumar 3020, New Balmiki Colony, BRS Nagar, Ludhiana have been recorded. From the statements of the complainant and the accused No.1 & 2, it appears that compromise effected between the parties.

In this regard, petitioners/accused No.3 namely Rohit so Kala to Block-D, Glaspura, Flat P.S. Daba, Ludhiana has not come present in the Court for getting recorded his statement regarding compromise, in view of the order dated 06.09.2022 passed in CRM-M-29673-2020, and as such, it cannot be commented that whether the compromise effected between the complainant and petitioner/accused No.3 is genuine or not.

Further, as per the statement of Investigating Officer namely ASI Abhinash Rai, No.2057/Ludhiana, three persons were arrayed as accused namely Samrat s/o Sushil Kumar, Ankur @ Aditya s/o Manoj Kumar and Rohit so Kala. He further stated that the aforesaid accused persons are not involved in any other FIR, except the present FIR bearing No.94 dated 24.08.2020 and neither of the accused is declared as proclaimed offender. He further stated that there is only one complainant/injured namely Sunny s/o Gaj Raj in the present case."

A perusal of the said report would show that although, three petitioners/accused have filed the present petition, but only the complainant and petitioners No.1 and 2 had appeared before the trial Court in support of the compromise to record their statements and petitioner No.3 Rohit had not appeared. It is stated that the compromise entered between the said parties is genuine, voluntary and without any pressure.

Learned counsel for the petitioners has relied upon the

judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioners/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2015** titled as '**Dalip Mandal and another Vs. State of U.T., Chandigarh and others**', in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only, although, the matter had not been compromised between all the parties.

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 parties.

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 petitioners No.1 and 2 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, this petition is partly allowed and FIR No.94 dated 24.08.2020, registered under Sections 336, 506, 148 and 149 IPC and Sections 25 & 27 of the Arms Act, registered at Police Station Daba, Police Commissionerate, Ludhiana

and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua petitioners No.1 and 2 and present petition qua petitioner No.3 is dismissed.

However, liberty is granted to petitioner No.3 to file a fresh petition on the basis of compromise, in case, the compromise is still effectual with petitioner No.3 and if petitioner No.3 and the complainant are ready to make their statements before the trial Court in support of the said compromise, if effectual.

September 22, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No