

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

270

CRM-M-34739-2021

Decided on : 09.05.2022

Gurbachan Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Shivender Pal, Advocate for
Mr. B. S. Bhalla, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. B. K. Saini, Advocate
for respondent Nos. 2 to 4.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 17 dated 25.02.2021 under Sections 420 and 120-B of the Indian Penal Code, 1860 registered at Police Station Sadar Moga, District Moga (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 06.04.2022, this Court was pleased to pass the following order:-

“Learned counsel for the parties has submitted that one last opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 09.05.2022.

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 as the respondents have not appeared before the Illaqa Magistrate/trial Court in spite of giving direction, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioners in the Punjab and Haryana High Court Employees' Welfare Association Fund, within a period of 10 days from today.

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.”

In pursuance of the said order, a report has been submitted by

the Additional Chief Judicial Magistrate, Moga to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Accused have produced on record copy of receipt dated 08.04.2022 vide which they have deposited ₹ 5,000/- in Punjab & Haryana High Court Employees Welfare Association Fund as per the directions of the Hon'ble High Court.

On the basis of the statements referred supra, following point wise report is submitted as desired:

1. There are found accused namely Gurbachan Singh, Manjinder Kaur, Gursimran Singh and Harmanpreet Kaur. Challan against the accused namely Gurbachan Singh, Manjinder Kaur, Gursimran Singh has been presented and challan against accused Harmanpreet Kaur has not been presented in the court.

2. From the statement of the Investigating Officer and the parties, no accused has been declared proclaimed offender in this case.

3. It can be culled from the statements of the parties that the compromise arrived at between the parties is genuine, voluntary and without any pressure, coercion or undue influence from any quarter and out of free will of the parties. The compromise has been arrived at with an aim to put an end to the matrimonial dispute between the parties.

4. From the statements of the Investigating Officer, accused and from perusal of conviction

slip attached with the challan, it is clear that accused are not involved in any other FIR.

5. As per the statement of the 10, there is only one complainant namely Narinder Singh and one victim namely Manpreet Singh son of complainant Narinder Singh. There is no other victim or complainant in this case except them.

Kindly find enclosed herewith original statements of the parties for your honour's kind perusal.

Submitted please. ”

A perusal of the above report would show that it has been stated that the statements of Complainant and the victim namely Manpreet Singh as well as the petitioners have been recorded in the case and they 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 none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent Nos. 2 to 4 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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, the petition is allowed and FIR No. 17 dated 25.02.2021 under Sections 420 and 120-B of the Indian Penal Code,1860 registered at Police Station Sadar Moga, District Moga (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 9th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No