

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32399-2022

Date of decision:24.08.2022

Simranjit Singh Dhanjal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjeev Duggal, Advocate for the petitioner.

Mr. Kuldeep Singh, AAG, Punjab.

None for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.62 dated 24.04.2022 registered under Sections 379B(2), 34 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 27.07.2022, 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.62 dated 24.04.2022 registered under Sections 379B(2), 34 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioner has submitted that in the present case, there are four accused persons, out of which, one accused person i.e. the present petitioner has filed the present petition and thus, the present case is a case of partial compromise and has relied upon judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs.***

***State of Gujarat and another**, reported as **2012 (12) SCC 401** to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.*

Notice of motion for 24.08.2022.

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

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.*

27.07.2022

(VIKAS BAHL)
JUDGE”

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

“Hence, in view of the statement suffered by the parties and the Investigating Officer, the requisite information as desired by the Hon'ble High Court is as under: -

- 1. That four accused have been arrayed in the present FIR namely Vishal, Sahil, Sandeep and Simranjit Singh.*
- 2. No accused has been declared as proclaimed person/offender in this case.*
- 3. The compromise effected between Kamal Swani and one accused Simranjit Singh is genuine, voluntarily and without any coercion and undue influence. No compromise has been effected by complainant with other three accused.*
- 4. There is no other FIR registered against above named accused.*
- 5. As per statement of I.O., there is only one*

complainant Kamal Swani in this case.

The attested photocopies of statements of the parties are also annexed herewith for kind perusal of your good-self. The report as desired is hereby submitted accordingly, please.

Thanking you,

Yours faithfully,

*(Himanshi Galhotra)
Sub Divisional Judicial Magistrate,
Phagwara (UID No.PB-0317)”*

A perusal of the above said report would show that the petitioner, complainant-respondent No.2-Kamal Swani 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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.62 dated 24.04.2022 registered under Sections 379B(2), 34 of the Indian Penal Code, 1860 at Police Station City Phagwara, District Kapurthala (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 24, 2022.
Ishwar Singh

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No