

THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH
(291+280)

1. CRM-M-31939-2022

Jagseer Singh and others

...Petitioners

Vs.

State of Punjab and another

...Respondents

2. CRM-M-28531-2022

Jagsir Singh @ Jagga and others

...Petitioners

Vs.

State of Punjab and another

...Respondents

Date of Decision: - 01.08.2022

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioners in both the petitions.

Mr. Sukhbeer Singh, AAG Punjab.

Mr. Kuldip Singh Siwach, Advocate
for respondent No. 2 in CRM-M-28531-2022.

Mr. Kuldeep Singh Siwach, Advocate
and Mr. Abdul Aziz, Advocate
for respondent No.2 in CRM-M-31939-2022

VIKAS BAHL J. (Oral)

This order will dispose of two petitions i.e., CRM-M-31939-2022, which has been filed by 5 petitioners and CRM-M-28531-2022, which has been filed by 4 petitioners for quashing of FIR No.129 dated 05.04.2022, registered under Sections 384, 323, 341, 506, 395 and 120-B of the Indian

Penal Code, 1860 at Police Station City Barnala, District Barnala (Annexure P-1) and all the subsequent proceedings emanating therefrom on the basis of compromise.

On 26.07.2022, this Court was pleased to pass the following order in CRM-M-31939-2022:-

"This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.129 dated 05.04.2022 registered under Sections 384, 323, 341, 506, 120-B, 395 of the Indian Penal Code, 1860 at Police Station City Barnala, District Barnala (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that in the present case, there are 9 accused persons, out of which, 4 accused persons have already filed petition bearing No.CRM-M-28531-2022, in which, notice of motion has been issued and the same is now fixed for 01.08.2022 and the parties were directed to get their statements recorded before the Illaqa Magistrate/trial Court. It is further submitted that inadvertently, in the abovesaid case, it was argued that there were 6 accused in all whereas in fact, there are 9 accused in all. It is contended that the present petition has been filed by remaining 5 accused persons and thus, now, all the parties have compromised the matter. It is further contended that 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 01.08.2022.

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

26.07.2022

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class (Duty), Barnala, dated 29.07.2022, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

"As desired, the report is as follows:-

1. *As per the above statements and report, in the present FIR seven persons namely Petitioner no.1 Jagsir Singh, Petitioner no.2 Ramandeep Kaur, Petitioner no.3 Prabhjeet Singh @Vicky, Petitioner no.4 Gurvir Kaur, Petitioner no.5 Lakhveer Singh and accused Karamjit Singh and one unknown person have been arrayed as accused persons and there is no any other accused other than the petitioners in this case.*
2. *As per the above statements and report, none of the accused have been declared as Proclaimed Offender.*
3. *As per the above statements and report, it appears that parties to the present petition have been voluntarily entered into compromise and the compromise between the parties is genuine, voluntary and without any coercion or undue influence.*
4. *As per the statement of Investigating Officer, the accused persons are not involved in any other FIR and no other criminal proceedings are pending against the accused persons.*
5. *As per the statement of Investigating Officer, there is only one complainant Sandeep Kumar @ Shipi.*

It is respectfully submitted that accused Karamjit Singh has not come present before the court for recording his statement qua the compromise. Statements along with report are enclosed herewith.

Report is accordingly submitted to be presented in CRM-M 31939-2022 pending for 01.08.2022 before the Hon'ble Punjab & Haryana High Court, Chandigarh

Thanking you.

Yours sincerely,

*Babaljit Kaur, PCS
Judicial Magistrate 1st Class (Duty),
Barnala. UID PB0619"*

In the above-said report, it has been stated that there are 7 accused persons in FIR No.129, whereas, as per the stand of the petitioners and the respondent-State, there are 9 accused persons. In the aforesaid report, it has also been stated that accused Karamjit Singh has not appeared to give his statement and there is one unknown person.

It is relevant to mention that the said Karamjit Singh has appeared before the Judicial Magistrate Ist Class, Barnala, after order dated 07.07.2022 was passed in CRM-M-28531-2022, The report submitted in CRM-M-28531-2022 is reproduced as under:-

"As desired, the report is as follows:

- 1. As per the above statements and report, in the present FIR 1 four persons namely Petitioner no.1 Jagsir Singh, Petitioner no.2, Karamjeet Singh, Petitioner no 3 Sikander Singh and Petitioner no 4 Kartar Singh have been arrayed as accused persons and there is no any other accused other than the petitioners in this case.*
- 2. As per the above statements and report, none of the accused have been declared as Proclaimed Offender.*
- 3. As per the above statements and report, it appears that parties to the present petition have been voluntarily entered into compromise and the compromise between the parties is genuine, and without any coercion or undue influence.*
- 4. As per the above statements and report, the accused persons are not involved in any other FIR.*
- 5. As per the statement of Investigating Officer, there is only one complainant Sandeep Kumar @Shipi.*

Report is accordingly submitted to be presented in CRM-M 28531-2022 pending for 01.08.2022 before the Hon'ble Punjab & Haryana High Court, Chandigarh.

Thanking you.

Yours faithfully,

*Babaljit Kaur, PCS
Judicial Magistrate 1st Class (Duty),
Barnala. UID PB0619"*

A perusal of the above report would show that the same is also with respect to FIR No.129 dated 05.04.2022, in which, the Judicial Magistrate Ist Class, Barnala has recorded that there are 4 accused. The above-said two reports have not stated the correct facts. The counsel for the petitioners, as well as the State, have specifically stated that there are 9 accused persons in all. Even a perusal of the above-said two reports would show that there are 9 accused persons in all, out of which, 5 have appeared before the court of Ld. JMIC, Barnala on 28.07.2022, on the basis of which the report was submitted on 29.07.2022 and 4 persons had appeared on 12.07.2022, on the basis of which the report was submitted in CRM-M-28531-2022. It is also relevant to note that there are two Jagsir Singh, who are accused in the present case. One is Jagsir Singh @ Jagga son of Karnail Singh and another is Jasgeer Singh son of Sher Singh and thus, in all, there are 9 accused persons, which has been detailed as follows: -

1. Jagsir Singh @ Jagga s/o Karnail Singh
2. Karamjit Singh
3. Sikander Singh
4. Kartar Singh
5. Jagseer Singh son of Sher Singh
6. Ramandeep Kaur
7. Prabhjeet Singh
8. Gurvir Kaur
9. Lakhveer Singh

The first 4 persons have given their statements on 12.07.2022 and the remaining 5 persons have given their statements on 28.07.2022 and thus, a combined reading of the aforesaid two reports would show that all the accused persons have given their statements. As per both the statements,

there is one complainant, i.e. Sandeep Kumar @ Shilpi, who has also got his statement recorded in support of the compromise.

Even counsel appearing for respondent No.2 has stated that the compromise has been effected with all 9 accused persons and he has also prayed that both the petitions be allowed and the FIR be quashed qua all of them.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the reports submitted by the learned 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. XXX---XXX”

In view of what has been discussed hereinabove, the present petitions are allowed and FIR No.129, dated 05.04.2022, under Sections 384, 323, 341, 506, 395 and 120-B of the Indian Penal Code, 1860 at Police Station City Barnala, District Barnala (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

August 01, 2022
naresh.k/Ajay Goswami

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes