

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32856-2022 (O&M)

Date of decision:07.09.2022

Baljinder Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ramnish Puri, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Amit Khari, 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.104 dated 01.07.2009 registered under Sections 457, 380 of the Indian Penal Code, 1860 at Police Station Majitha, District Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 01.08.2022, this Court was pleased to pass the following order:-

“CRM-26539-2022

This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

Main case

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.104 dated 01.07.2009 registered under Sections 457, 380 of the Indian Penal Code, 1860 at Police Station Majitha, District Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of

compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 07.09.2022.

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

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)

01.08.2022

JUDGE”

In pursuance to the said order, a report has been submitted by Judicial Magistrate 1st Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“I am satisfied that the compromise is genuine and has been effected between the parties voluntarily, without any coercion or undue influence. It is further submitted that as per the statement of investigating officer SI Baljit Singh No.03/ASR (Rural), Police Station Majitha, Amritsar, he is the investigating officer of the present case. There are four accused involved in the present case namely Baljinder Singh, Baljit Singh, Manjit Kaur and Surinderjit Singh (who has since died). Accused has never been declared as proclaimed offender in the present case. Accused are not involved in any other case, except the present case. There is only one complainant in the present case namely Sohan Singh.

The report is being submitted please.

Thanking you,

*Yours faithfully,
(Gagandeep Singh)
Judicial Magistrate 1st Class,
Amritsar.
UID No.PB0404”*

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

Further perusal of the report would also show that there were four accused persons out of which one has died and the remaining have filed the present petition.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offenders 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 petitioners.

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 two parties.

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 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

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.104 dated 01.07.2009 registered under Sections 457, 380 of the Indian Penal Code, 1860 at Police Station Majitha, District Amritsar (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Pending application, if any, stands disposed of in view of the above said order.

07.09.2022

Ishwar

(VIKAS BAHL)
JUDGE