

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34102-2022

Date of decision:28.09.2022

Khushpreet Singh @ Khushi and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Shubham Gupta, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Abhishek Singla, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of DDR No.31 dated 19.05.2022 registered under Sections 323,324 and 34 of the Indian Penal Code, 1860 (Annexure P-1) in FIR No.94 dated 19.05.2022 registered under Sections 323,336,34 of the Indian Penal Code, 1860, Sections 25 and 27 of the Arms Act, 1959 at Police Station Talwandi Sabo, District Bathinda (Annexure P-2) along with all the subsequent proceedings arising therefrom on the basis of compromise dated 21.07.2022 (Annexure P-3).

On 23.08.2022, 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 26.09.2022.

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 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 High Court Lawyers' Welfare Fund, within a period of 10 days from today.

The trial Court shall only record the statements of parties on production of the 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”*

August 23, 2022

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

“....The report is submitted as under:

- 1. As per statement of IO, only three persons, who are already made party to the quashing petition as petitioners, have been arrayed as accused in the DDR in question.*
- 2. As per statement of IO, no accused is proclaimed offender.*
- 3. As per statements of the parties, the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. As per statement of IO, accused persons are not involved in any other FIR.*
- 5. As per statement of IO, there is only one*

complainant/victim/aggrieved person namely Sukhpal Singh in the DDR in question, who has already been made party to the quashing petition as respondent No.2.

The report is submitted accordingly along-with original statements of parties, copies of their Aadhaar Cards and copy of receipt regarding payment of costs of Rs.5000/- in the High Court Lawyers' Welfare Fund.

Yours faithfully,

*(Sudhir Kumar), PCS,
Judicial Magistrate Ist Class,
Talwandi Sabo, Distt. Bathinda,
(UID no.PB0378)”*

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.

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 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 DDR No.31 dated 19.05.2022 registered under Sections 323,324 and 34 of the Indian Penal Code, 1860 (Annexure P-1) in FIR No.94 dated 19.05.2022 registered under Sections 323,336,34 of the Indian Penal Code, 1860, Sections 25 and 27 of the Arms Act, 1959 at Police

Station Talwandi Sabo, District Bathinda (Annexure P-2) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

28.09.2022

Ishwar

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(VIKAS BAHL)

JUDGE