

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-33533-2022

Date of decision: 11.10.2022

Bhola Singh alias Bholu and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Tanisha, Advocate for
Mr. Karanjeet Singh Brar, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Sanjeev Kumar Devgan, Advocate for
Mr. Sudhanshu Khanna, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure for seeking quashing of case bearing FIR No.259 dated 22.11.2020 under Sections 365,323,148,149 of the Indian Penal Code registered at Police Station City-I Abohar, District Fazilka (Annexure P-1) along with all consequential proceedings arising therefrom on the basis of compromise dated 24.03.2022 (Annexure P-2) entered into between the parties.

On 01.08.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure for seeking quashing of case bearing FIR No.259 dated 22.11.2020 under Sections 365, 323, 148 and 149 of the Indian Penal Code registered at Police Station City-I Abohar, District Fazilka and all consequential proceedings arising therefrom on the basis of compromise dated 24.03.2022 (Annexure P-2) entered into

between the parties.

Notice of motion.

At this stage, Ms. Amarjit Kaur Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Sudhanshu Khanna, Advocate, appears on behalf of respondent No.2 and admits the execution of compromise (Annexure P-2).

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement, on 01.09.2022 or on any other date as convenient to the Court.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;*
- (ii) Whether any accused is proclaimed offender;*
- (iii) The stage of trial/proceedings; and*
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

To come up on 11.10.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.

(VINOD S. BHARDWAJ)

01.08.2022

JUDGE”

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

“....It is furthermore, respectfully submitted that: -

- (i) In the present case, as per statements of ASI Gurmail Singh, I.O of this case and complainant Akashdeep Singh @ Rahul, there are eight accused namely Bhola Singh @ Bholu, Rajwinder Kaur @ Raji, Kulwinder Singh @ Gori, Jaswinder Kaur @ Guddo, Jaisleen Singh @ Binny and Manpreet Singh @ Manna, Sandeep Singh @ Sippy & Juvenile Akashdeep Singh, minor son of Bhola Singh in present case.*
- (ii) As per statement of ASI Gurmail Singh, I.O. of this case, none of the accused is proclaimed offender.*
- (iii) In present case, Final Report/Challan has been presented in FIR and same is pending for procuring presence of accused.*
- (iv) As per above statements of parties, compromise has been effected between petitioners and*

respondent No.2. This compromise is acceptable to both the respective parties. Therefore, this compromise is genuine, voluntarily and is without any coercion or undue influence.

Hence, my report, Hon'ble Sir.

*Yours faithfully,
(Anish Goyal),
Sub Divisional Judicial Magistrate
Abohar, PB0320”*

A perusal of the above said report would show that the petitioners and 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 FIR No.259 dated 22.11.2020 under Sections 365,323,148,149 of the Indian Penal Code registered at Police Station City-I Abohar, District Fazilka (Annexure P-1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

11.10.2022

Ishwar

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