

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-40770-2022

Date of decision:28.09.2022

Avtar Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. P.P.S. Doabia, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Anil Kumar Sharma, Advocate for the complainant/
respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.36 dated 18.03.2014 registered under Sections 420,120-B IPC at Police Station Machhiwara, District Khanna (Annexure P-1) along with all other consequential proceedings arising therefrom on the basis of compromise dated 09.05.2022 (Annexure P-2).

On 07.09.2022, this Court was pleased to pass the following order:-

“CRM-33201-2022

This is an application filed for grant of leave under Rule 3-A(i) 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.

CRM-M-40770-2022

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.36 dated 18.03.2014 registered under Sections 420,120-B IPC at Police Station Machhiwara,

District Khanna and all other consequential 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 26.09.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent no.1. Mr. Anil Kumar Sharma, Advocate, appears on behalf of complainant-respondent no.2 and admits the factum of compromise.

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.*

*(VIKAS BAHL)
JUDGE”*

September 07, 2022

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

“(iii) As per the statements of the parties, complainant Karnail Singh Dhillon and the accused persons have compromised the matter vide written compromise dated 09.05.2022. Photocopy of the same is Annexure A. It appears to this court that the compromise is genuine and voluntary and the same appears to have been effected between the parties out of their free will and consent, without any threat or pressure or coercion or undue influence.

(iv) xxxx xxxx

(v) As per the statement of the Investigating Officer, there is only one victim/complainant in the FIR namely Karnail Singh Dhillon son of Shadi Singh Dhillon.

5. xxxx xxxx

*Submitted please.
Thanking you.*

*Yours faithfully,
(Ramandeep Neetu-PB0452)
Judicial Magistrate Ist Class,
Samrala.”*

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 FIR No.36 dated 18.03.2014 registered under Sections 420,120-B IPC at Police Station Machhiwara, District Khanna (Annexure P-1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

28.09.2022

Ishwar

(VIKAS BAHL)
JUDGE

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