

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.253

CRM-M-33535-2020 (O&M)

Date of Decision: August 24, 2022

Gurmail Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Nirmaljeet Singh Sidhu, Advocate for the petitioners.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Siddharth Guupta, Advocate for respondent Nos.2 and 3.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.148, dated 01.11.2018, under Sections 420, 406 and 120-B of the Indian Penal Code, registered at Police Station Dayalpura, District Bathinda, and all other consequential proceedings arising therefrom on the basis of the compromise dated 29.09.2020 (Annexure P-2).

On 31.05.2022, this Court had passed the following order:-

“1. The application for the recording of the statement of the parties in lieu of compromise dated 29.09.2020 (Annexure P-2) is allowed, and , before proceeding to quash FIR No.148 dated 01.11.2018, registered at Police Station Dayalpura, District Bathinda, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after summoning the petitioners, and, respondents No.2, and, 3, and after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the voluntariness, and also, with respect to

the authenticity of the compromise drawn amongst them, as embodied in Annexure P-2, to make a report with respect to the compromise (supra).

5. *The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; (c) whether the prosecution evidence has commenced; and (d) whether all the concerned have signed the compromise deed.*

6. *The afore made report be ensured to be transmitted to this Court within three weeks.*

7. *For the afore purpose, list on 14.09.2022.*

8. *In view of the compromise, in respect whereof the learned Illaqa Magistrate is directed to transmit his report to this Court, therefore, he is restrained, till further orders, from taking up any further judicial proceedings, in respect of FIR (supra)."*

Pursuant to the aforesaid order, report dated 15.06.2022 has been received from the Judicial Magistrate 1st Class, Phul, The relevant paragraph of the said report is as under:-

"It is submitted that in compliance to the above said order of Hon'ble High Court, complainants Jeet Singh son of Nachattar Singh and Dharamjeet Singh son of Jeet Singh, both residents of Saidoke, Tehsil Nihal Singh Wala, District Moga as well as accused Jaspal Kaur widow of Gurmail Singh, Jaswinder Singh son of Gurmail Singh, Jagseer Singh son of Gurmail Singh and Kiranjeet Kaur daughter of Gurmail Singh appeared in the court and their statements regarding compromise have been recorded. The complainants as well as accused persons have been identified by their respective counsels. Further, in reply to above said query it is submitted that the compromise arrived at between the complainants Jeet Singh and Dharamjeet Singh as well as accused Jaspal Kaur, Jaswinder Singh, Jagseer Singh and Kiranjeet Kaur is genuine, voluntary and without any coercion or undue influence. Further, it is submitted that accused-petitioner Gurmail Singh has died during the pendency of the proceedings

and his death certificate has been placed on record. Further, in reply to above said query, it is submitted as under:

- a) As per record, report under Section -173 Cr.P.C. has not been filed so far.*
- b) No charge has been drawn against the accused.*
- c) No prosecution evidence has commenced.*
- d) All the concerned have signed the compromise deed.”*

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, except petitioner No.1 Gurmail Singh, who is stated to have died. They have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed.

While relying upon the judgment of Hon'ble the Supreme Court in case of ***“Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another”***, 2012(12) SCC 401, learned counsel for the petitioners contends that where there is a partial compromise with some of the accused then also the proceedings against the said accused should be quashed as the same would not even remotely result in conviction of the said accused.

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner(s) and the complainant(s). Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view that the same was 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 the above, the petition is allowed and FIR No.148, dated 01.11.2018, under Sections 420, 406 and 120-B of the Indian Penal Code, registered at Police Station Dayalpura, District Bathinda, and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

August 24, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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