

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34378-2022

Date of decision : 23.08.2022

Pawan Kumar and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kewal Singh, Advocate
for the petitioners.

Mr.Alankar Narula, AAG, Punjab.

Mr.Baljinder Singh, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.10 dated 18.01.2022 registered under Sections 452, 323, 427, 148, 149 IPC at Police Station Division no.7, District Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise.

On 04.08.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No. 10 dated 18.01.2022 registered under Sections 452, 323, 427, 148 and 149 of the Indian Penal Code, 1860 at Police Station Division No. 7, District Ludhiana (Annexure P-1) and subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 23.08.2022.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Baljinder Singh, Advocate appears on behalf of respondent No. 2.

*Learned counsel for the petitioners and respondent No. 2 have submitted that in the present case, there are 9 accused persons in the FIR and 6 unknown persons but however, the compromise has been effected with only three accused persons who have filed the present petition and have thus, relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, reported as 2012 (12) SCC 401, to contend that** where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.*

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.*

04.08.2022”

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

“iii. After perusing the statements of the complainant Ranjeet Singh and of the accused Pawan Kumar, Lucky and Subhash Pal @ Subhash Kumar, this Court is satisfied that the compromise arrived at between the parties i e. complainant Ranjeet Singh and

accused Pawan Kumar, Lucky and Subhash Pal @ Subhash Kumar is genuine, voluntary and without any coercion or undue influence

iv. As per the statement of the IO, the accused persons are not involved in any other case.

v. As per the statement of the IO SI Jagpal Singh, the victim/complainant in the present FIR is Ranjit Singh S/o Baldev Singh, who is respondent No. 2 in the present CRM-M.

Hence, the report is submitted.

Thanking You.

Yours faithfully

Date:-20.08.2022.

*Harmandeep Kaur
Judicial Magistrate Ist Class,
Ludhiana UID No. PB-0555"*

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

As has been noticed in the order dated 04.08.2022, the present case is a case of partial compromise as out of 9 accused, 3 accused have filed the present petition for quashing of FIR on the basis of compromise.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offender 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.10 dated 18.01.2022 registered under Sections 452,

323, 427, 148, 149 IPC at Police Station Division no.7, District Ludhiana and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

August 23, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

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