

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CRM-M-34933-2020
Decided on : 09.05.2022

Parveen Kumar @ Parveen Bali

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. G. S. Sirphikhi, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vishal Sodhi, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 381 dated 21.10.2011 under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 registered at Police Station Civil Lines, Amritsar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

On 30.10.2020, a Coordinate Bench of this Court was pleased to pass the following order:

“Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Mr. Vishal Sodhi, Advocate puts in appearance of his own on behalf of respondents No.2 and 3.

Notice of motion to the official respondent No.1-State.

Mr. Jagmohan Ghuman, DAG, Punjab has put in appearance and accepts notice on behalf of the official respondent No.1-State. Copy supplied.

The parties through their counsel are directed to appear before the Illaqa Magistrate/Duty Magistrate/Trial Court within 30 days from the receipt of the copy of this order to record their statements and the Illaqa Magistrate shall make a report as to its satisfaction with regard to genuineness of the compromise and if the same is an outcome of voluntariness without any threat, duress or coercion. The Magistrate shall also intimate if any of the parties to this petition has been declared as proclaimed offender or if challan has been presented or not. Original report with statements of the parties be sent to this Court.

For awaiting report, list on 02.02.2021.

Learned counsel shall ensure the personal appearance of the private parties too before this Court on the next date of hearing.

State is also directed to submit report as to the stage of the investigation.

*Sd/-
(FATEH DEEP SINGH)
JUDGE”*

30.10.2020

In pursuance of the said order, a report has been submitted by the Chief Judicial Magistrate, Amritsar to the Assistant Registrar (Criminal) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Statement of Investigating officer ASI Virsa Singh has also been recorded who has stated that there are three accused namely Parveen Kumar @Parveen Bali, Madhu and Amritpal Sharma in this case. There is only one complainant namely Ramesh Kumar in this case. Untraced report was presented in this case which was returned back by the Court for further investigation. Final report after further investigation has not been submitted in the Court so far. Further investigation of the case is still pending.

Hence, report on the information sought by Hon'ble High Court is submitted as under :

From the statements of the petitioners/accused and the respondent/complainant, this court is of the opinion that their settlement/compromise is genuine and voluntary and is without any coercion or undue influence.

As per statement of investigation officer none of the parties to petition has been declared as proclaimed offender and final report has not been presented in the Court so far and case is still pending for further investigation.

It is pertinent to mention here that Madhu and Amritpal Sharma are arrayed as accused in the FIR but they are not party to the petition filed by their co-accused and the complainant before the Hon'ble High Court.

The report as well as statements of the parties is submitted for kind perusal of the Hon'ble High Court.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioner have been recorded in the case and both have stated that the matter has

been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

It would be relevant to note that a perusal of the statements alongwith the complaint would show that even the statement of Suman @ Suman Bali-respondent No. 3 has been recorded by the trial Court affirming the factum with respect to compromise.

As per the above-reproduced report, there are three accused persons in the present case and the present petition has been filed by only one accused i.e. the present petitioner and a prayer has been made by counsel for the petitioner as well as the counsel for respondent Nos. 2 and 3 that the FIR be quashed qua the present petitioner.

Learned counsel for the petitioner has 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.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh and others** in which case, the Co-ordinate Bench of this Court was pleased to allow

the petition qua the petitioners only although, the matter had not been compromised between all the parties.

Learned counsel for respondent Nos. 2 and 3 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 bring out peace and amity between the 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 petitioner 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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 381 dated 21.10.2011 under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 registered at Police Station Civil Lines, Amritsar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioner.

(VIKAS BAHL)
JUDGE

May 9th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No