

265

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-33710-2020

Date of decision : 24.05.2022

Gurkirpal Singh @ Raju

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikram Jeet Singh, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Manoj Pundir, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.79 dated 18.03.2019 registered under Sections 419, 420, 170 of the Indian Penal Code, 1860 at Police Station Sohana, District SAS Nagar, Mohali and all the subsequent proceedings arising therefrom on the basis of compromise.

On 25.02.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“This is an application under Section 482 Cr.PC for seeking another opportunity to get their statements recorded in terms of order dated 27.10.2020.

Learned counsel for the petitioner submits that the complainant had to go to his native village for some personal work and therefore, could not appear on the date fixed before the Court concerned for recording their

statements on 02.12.2020.

After hearing learned counsel for the parties, application is allowed. Parties are again directed to appear before the trial Court/Illaq Magistrate on 05.03.2021 or on the date fixed by the trial Court/Illaq Magistrate for getting their statements recorded. The trial Court/Illaq Magistrate shall submit its report as per order dated 27.10.2020 of this Court.

To await the report, adjourned to 26.03.2021.

Sd/-(MANJARI NEHRU KAUL)

25.02.2021

JUDGE ”

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

“Thereafter, Investigating Officer namely ASI Satnam Singh No. 1612, SAS Nagar posted at Police Station Sohana, SAS Nagar (Mohali) also appeared today i.e. on 05.03.2021 and suffered a statement that the instant FIR has been registered at the instance of complainant Akshat Chauhan against accused Gurkirpal Singh and except him, no other accused has been arrayed in the present FIR. Further, no accused declared as proclaimed offender in the present case. Challan has not been presented in the instant FIR till date.

It is clear from the statement of complainant, accused and investigating officer that there is only one complainant namely Akshat Chauhan and one accused namely Gurkirpal Singh. Further, accused has not declared proclaimed offender in the present case, as the investigating officer, in his statement, has specifically mentioned.

It is further submitted that the instant case is pending for awaiting challan and calling status report from the concerned SHO for 26.05.2021.

Thus, the said compromise has been found as genuine, voluntarily, without any fear, force or pressure; it being result of an amicable settlement arrived at between the parties.

The statements of complainant, accused and investigating officer, are also enclosed herewith. It is for your kind information and necessary action.

Submitted please

Yours faithfully

Sd/- (Harjinder Kaur)

JMIC/SAS Nagar (Mohali)”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused 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.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and there are no other cases pending against the petitioner. Learned counsel for the State, as per instructions has stated that these facts are correct.

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 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**”, reported as **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**”, reported as **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.79 dated 18.03.2019 registered under Sections 419, 420, 170 of the Indian Penal Code, 1860 at Police Station Sohana, District SAS Nagar, Mohali and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

24.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**