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

CRM-M-37977-2022

Date of decision : 28.09.2022

Harbhajan Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ruhani Chadha, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.167 dated 18.10.2013 registered under Sections 420, 406, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 at Police Station Kulgari, District Ferozepur and all the subsequent proceedings arising therefrom on the basis of compromise.

On 26.08.2022, this Court had passed the following order:-

“CRM-30760-2022

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-37977-2022

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.167 dated 18.10.2013 registered under Sections 420, 406, 467, 468, 471, 120-B IPC at Police Station Kulgari, District Ferozepur and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that initially there are 6 accused out of which 2 accused namely Satnam and Jasbir have expired and thus, all the accused who are alive, have been made party. It is further submitted that the present petition is a second petition for quashing of FIR on the basis of compromise and now the parties are ready to give statements in respect of compromise and in the first petition, liberty was granted to file a fresh petition.

Notice of motion for 28.09.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr.DAG, Punjab accepts notice on behalf of respondent no.1.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 30 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.”*

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Ferozepur. The relevant portion of the said

report is reproduced hereinbelow:-

“(1) That there were six persons arrayed as accused in the present FIR namely i) Harbhajan singh son of Bhagat Singh, R/o H. No. 164, Tower Enclave, Phase 3, Kurale, District Jalandhar, ii) Harminder Kaur @ Baby wife of Amarjeet Singh, R/o House No. 115, Gali No. 2 Rose Park, Jalandhar, iii) Kashmiri Lal Rahul son of Bhagat Ram, iv) Pankaj Rahul son of Kashmiri lal Rahul, both Residents of H. No. F/11, Plahi Road, near Gurudwara Ravidas, Green Park, Phagwara District Kapurthala. v) Satnam Singh son of Sadhu Singh R/o Aman Enclave Village Dhina District Jalandhar, vi) Jasvir Singh son of unknown R/o Jakharta Indonesia

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3) Compromise is Genuine, Voluntary and without any coercion or undue influence.

4) That no other FIR has been registered against the above mentioned accused namely 1) Harbhajan singh, ii) Harminder Kaur @ Baby, iii) Kashmiri Lal Rahul, iv) Pankaj Rahul son of Kashmiri lal Rahul, v) Satnam Singh vi) Jasvir Singh except the present FIR.

5) That there is only one Victim/complainant namely Sukhjeet Singh son of Jagir Singh in the present FIR.”

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 petitioners 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.

A perusal of the above report would also show that there are 6 accused persons.

Learned counsel for the petitioners has further submitted that out of the abovesaid 6 accused persons, two accused persons have died and the present petition has been filed by the remaining four accused persons and thus, the present case is a case of partial compromise and has relied upon judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012(12) SCC 401** to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.

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.167 dated 18.10.2013 registered under Sections 420, 406, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 at Police Station Kulgari, District Ferozepur and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed qua the petitioners and order dated 19.02.2015 passed by the Judicial Magistrate Ist Class, Ferozepur declaring petitioner Nos.3 and 4 as proclaimed offender is set aside.

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

28.09.2022

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**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No