

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

266

CRM-M-36396-2020
Decided on : 09.05.2022

Avinash and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. G. P. S. Pathania, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Amit Babbar, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 149 dated 18.07.2020 under Sections 323, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Division No. 2, District Pathankot (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 22.02.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“In compliance of the order dated 06.11.2020, report has been received from the learned trial Court to the effect that statements of complainant(s) have been recorded in respect of the genuineness of the compromise arrived at between the parties. However, the statements of accused persons have not been recorded on account of offence Section 308 IPC having been

added later on.

In view of the above, the parties are again directed to appear before the Illaqa Magistrate/trial Court on 02.03.2022 or any other date convenient to the Court for recording their statements, in terms of order dated 06.11.2020.

List on 09.05.2022.

Learned trial Court is directed to send the report to this Court before the date fixed with regard to the genuineness of the compromise.

22.02.2022

Sd/-
(SANT PARKASH)
JUDGE”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Pathankot to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“After going through the statements and the file, I am satisfied that both the parties have got recorded their statements voluntarily with regard to the compromise. The parties got recorded their statements voluntarily and out of free will with regard to the compromise. It is submitted that:

(i) That, as per statement of ASI Samar Singh appeared on behalf of Investigating Officer, there are only two accused/petitioners i.e. Avinash and Sunny arrayed in the FIR and no one is declared as absconding/PO in the present petition before Hon'ble High Court.

(ii) That, there are only four complainant /respondent/injured i.e. Amandeep Kumar,

Rahul Kumar, Raj Kumar and Love and no other effected/aggrieved party, except aforesaid complainant/ respondent who are already respondents in the petition before Hon'ble High Court.

(iii) That, as per statement of both the parties the compromise is genuine, voluntary and without any coercion or undue influence. Statements of complainant, accused as well as ASI Samar Singh appeared on behalf of Investigating Officer are attached herewith. This is for your kind perusal.

Submitted please.”

A perusal of the abovesaid report would show that the statements of the petitioners as well as respondent No. 2 have been recorded. It is relevant to note that although, in the present petition, only Amandeep Singh has been made party as respondent No. 2 and as per the above report, other than Amandeep Singh, there are 3 other persons who are aggrieved persons i.e. Rahul Kumar, Raj Kumar and Love. But a perusal of the said statements would show that even the statements of the said 3 persons have been recorded affirming the factum of compromise. They 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 and the aggrieved persons have been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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. 149 dated 18.07.2020 under Sections 323, 506, 148 and 149 of the Indian Penal Code,1860 registered at Police Station Division No. 2, District Pathankot (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 9th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No