

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(243)

CRM-M-41279-2021 (O&M)

Date of decision:- 09.12.2022

Harinder Singh Gill and another

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gurminder Singh, Senior Advocate
with Mr. Jatinder Singh Gill, Advocate,
for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. B.S. Toor, 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.36 dated 27.03.2017, registered under Sections 420 and 120-B IPC, at Police Station Sadar Sri Muktsar Sahib and all other consequential proceedings arising therefrom, on the basis of compromise.

Learned Senior counsel for the petitioners as well as learned counsel for respondent No.2 have jointly submitted that initially the petitioners had filed the present petition on merits and during the course of proceedings, a compromise crystallized and a Co-ordinate Bench of this Court, vide order dated 08.09.2022 had directed the parties to record their statements. The relevant portion of the said order is reproduced as under:-

“The learned senior counsel has submitted that it is a case where there was a financial dispute between the petitioners and respondent No.2 and thereafter the present FIR was lodged. During the course of investigation, a cancellation report was prepared by the police and thereafter a settlement was arrived at between the parties vide Annexure P-3 wherein a Memorandum of Understanding was also executed. The respondent No.2 had taken part payment but thereafter was not honouring the agreement and thereafter petitioners had approached this Court by filing the present petition for quashing of the FIR based upon merits. However, during the pendency of the present petition, the matter was again amicably settled between the parties and now it has been fully settled and both the parties have performed their respective obligations. He submitted that respondent No.2 has now filed a categorical affidavit before this Court dated 02.05.2022 wherein she has stated that she has already received a sum of Rs.1.80 Crores from the petitioners and has completed all the formalities which she was required to fulfill under the terms and conditions of the MoU dated 28.01.2019 and she has made the compromise without any coercion or undue influence. It has been further stated in the affidavit that the dispute between the parties has been amicably settled and she has no objection in case the FIR in question is quashed.

*It has been pointed out by the learned senior counsel for the petitioners as well as the learned counsel appearing on behalf of respondent No.2 that respondent No.2 is an old lady aged 84 years and is now bed ridden and both the learned counsels have made a request that since the matter has already been compromised between the parties, the FIR can be quashed based upon compromise in view of the law laid down by the Hon’ble Supreme Court of India in **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019(5) SCC 688**, since the matter is purely pertaining to financial dispute. He further submitted that in the interest of justice the FIR may be quashed based upon compromise. They have however submitted that since respondent No.2 is an old lady and also bed ridden, she is not able to appear before the learned Illaqa Magistrate/trial Judge for getting her statement recorded and therefore has prayed that she may be permitted to get her statement recorded through video conference.*

In view of the aforesaid position and considering the aforesaid facts and circumstances, petitioners No.1 and 2 are directed to appear before the learned Illaqa Magistrate/trial Judge on 23.09.2022 for getting their statements recorded with regard to the genuineness and voluntariness of the compromise.

The Illaqa Magistrate/trial Court is directed to submit a report alongwith copies of statements of the parties on or before the next date of hearing, containing the following information as well:

- i) Number of persons arrayed as accused in FIR;*
- ii) Whether any accused is proclaimed offender;*
- iii) Status of trial/proceedings and*
- iv) Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

So far as respondent No.2 is concerned, since both the learned counsel for the parties have submitted that she is an old lady aged 84 years and is also bed ridden, permission is granted for getting her statement recorded through video conference. The date and time of the video conference for the purpose of recording of her statement shall be fixed by the learned Illaqa Magistrate/trial Judge at convenience after consulting the same with the counsel for respondent No.2. The learned trial Court shall ensure that the counsel for respondent No.2 remains present alongwith respondent No.2 at the time of video conference and shall also ensure that the counsel identifies respondent No.2 at the time of video conference.

Adjourned to 31.10.2022.

*To be taken up immediately after **urgent cases**.*

(JASGURPREET SINGH PURI)
JUDGE

September 08, 2022

In pursuance of the said order, the report has been submitted by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib to the Registrar (Criminal) of this Court. The relevant part of the report is reproduced hereinbelow:-

“In view of the aforesaid statements, the report as desired by

Hon'ble Punjab and Haryana High Court is hereby submitted as follows:-

- 1. There are only two persons arraigned in the FIR as accused. As per the record and statement of investigating officer, none of the accused is absconding or declared as proclaimed offender in the case;*
- 2. The name of the complainant is Mrs. Pritam Chahal and there is only complainant in the present FIR.*
- 3. The FIR is still under investigation and challan has not yet been presented; and*
- 4. The compromise effected between the parties appears to be genuine, voluntary and without any coercion or undue influence.”*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with seems to be genuine, voluntary and without any coercion or undue influence.

Learned Senior counsel for the petitioners has submitted that the petitioners have not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is 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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.36 dated 27.03.2017, registered under Sections 420 and 120-B IPC, at Police Station Sadar Sri Muktsar Sahib and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

Pending miscellaneous applications, if any, stand disposed of.

December 09, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No