

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37777-2020(O&M)

Date of decision : 02.05.2022

Tejinder Singh alias Pali and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Hitesh Chopra, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.Ashish, Advocate for
Mr. Rajat Sharma, 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.0042 dated 28.03.2020 registered under Sections 295, 269, 188 IPC at Police Station Sujanpur, District Pathankot and all other consequential proceedings arising therefrom on the basis of compromise.

On 17.11.2020, a coordinate Bench of this Court was pleased to pass the following order:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

This petition has been filed seeking quashing of FIR no.0042 dated 28.03.2020 (as also all other subsequent proceedings arising therefrom), registered at Police Station Sujanpur, District Pathankot, for the alleged commission of offences punishable under Sections 295, 269, 188 of the IPC, on the basis of a compromise arrived at between the petitioners and

respondent no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. V.G. Jauhar, learned Sr. DAG, Punjab, accepts notice on behalf of respondent no.1.

Respondent no.2 be served by way of normal process.

Adjourned to 12.02.2021.

In the meanwhile, the petitioners, as also respondent no.2 would appear before the learned Area Magistrate up to 14.12.2020 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners or not.

17.11.2020

(AMOL RATTAN SINGH)
JUDGE”

In pursuance to the said order, a report has been submitted by the Chief Judicial Magistrate, Pathankot. The relevant portion of the said report is reproduced hereinbelow:-

“In compliance thereof, complainant Malkiat Singh has suffered statement that, the matter has been compromised between him and accused Tejinder Singh alias Pali and Azad Talwar son of Ravinder Talwar. Said Compromise is arrived into between them is genuine and without any undue influence, coercion or pressure of any kind. He is complainant in this case/ FIR and he does not want to proceed against the accused in the FIR No.42 dated 28.03.2020, under sections 295, 269, 188 IPC registered at police station Sujampur. He has no objection if the FIR and all other subsequent proceedings arising therefrom against the accused persons is quashed.

Both the accused namely Tejinder Singh @ Pali and Azad Talwar have suffered joint statement that, the matter has been compromised between them and complainant Malkiat Singh son of Mahinder Singh. Said compromise is arrived between them is genuine and without any undue influence, coercion or pressure of any kind. They are arrayed as accused in this case/ FIR No.42 dated 28.03.2020, under sections 295, 269, 188 IPC registered at police station Sujampur. It is prayed that, FIR along-with subsequent proceedings arising therefrom may kindly be quashed against him. ASI Surinder Kumar, No.118/Ptk has also appeared in the Court and suffered statement that, he is Investigating Officer in the above-said FIR and there are two persons arrayed as accused in FIR and none of the accused has been declared as Proclaimed Offender in this case/ FIR and there is no other person involved in this occurrence.

Keeping in view all aspects and statements of complainant and accused, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is voluntary and without any threat or force. As per statement of I.O., there is no other person involved in this occurrence and there are only two persons arrayed as accused in above-said FIR and none of the accused has been declared as Proclaimed Offender.

Report along with copies of statements of complainant and accused are submitted, with regards, as directed.

Yours faithfully,

*Kamaldeep Singh Dhaliwal,
Chief Judicial Magistrate,
Pathankot”*

A perusal of the above said report would show that the petitioners and respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offenders in the present case.

Learned State counsel has stated that he has no objection in

case the FIR is quashed on the basis of compromise qua the petitioners.

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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR no.0042 dated 28.03.2020 registered under Sections 295, 269, 188 IPC at Police Station Sujanpur, District Pathankot and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

May 02, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No