

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

254

CRM-M-37663-2020
Decided on : 18.04.2022

Suraj Parkash Khurana and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Neeraj Madaan, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Sanchit Punia, Advocate for
Mr. Vaibhav Nagori, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 97 dated 08.04.2020 under Sections 420 and 120-B of the Indian Penal Code, 1860 registered at Police Station City Fazilka, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before a Coordinate Bench of this Court on 16.11.2020, the following order was passed:

*“Case taken up through Video Conferencing.
Notice of motion.*

Mr.H.S. Sitta, AAG Punjab accepts notice on behalf of respondent no.1 and Mr.Vaibhav Nagori, Advocate accepts notice for respondent no.2.

Learned counsel for the petitioners undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.97 dated 08.04.2020 under Sections 420, 120-B IPC registered at Police Station City Fazilka, District Fazilka on the strength of a written compromise dated 29.10.2020 (Annexure P2) entered into between the parties.

The petitioners as also respondent no.2 through their counsel are directed to appear before the Illaqa Magistrate/ Trial Court on 23.11.2020 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/ Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/ Trial Court adjourned to 15.12.2020.

*Sd/-
(Deepak Sibal)
JUDGE”*
16.11.2020

Then subsequently on 15.12.2020, following order was passed by the Coordinate Bench:-

“Case taken up through video conferencing.

Learned counsel for the parties submit that in terms of the order of this Court dated 16.11.2020 the parties could not appear before the Illaqa Magistrate/Trial Court for recording of their statements. They pray that the parties may be granted another opportunity to do the needful.

The parties may now get their statements recorded on 22.12.2020 in terms of the order of this Court dated 16.11.2020.

To await the report of the Illaqa Magistrate/Trial Court, adjourned to 22.02.2021.

*Sd/-
(DEEPAK SIBAL)
JUDGE”*

15.12.2020

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

“As per record the FIR was registered against five persons namely:-

- i) Gurmeet Singh MD;*
- ii) Prem Kumar C.M.D.*
- iii) Om Parkash Director (petitioner No.2);*
- iv) Suraj Khurana Director (petitioner No.1);*
- v) Arvinder Bhatia Director;*

Only accused/petitioners Suraj Parkash Khurana and Om Parkash are parties to the compromise as per the statement of complainant and they also sought partly quashing the FIR against them only;

2. *As per the report of SHO Police Station City Fazilka the accused/petitioners have not been declared Proclaimed Offender and there is no other criminal case is pending against them. It is further submitted that the compromise between the complainant Arun Kumar and accused/petitioners Suraj Parkash Khurana and Om Parkash is genuine, voluntarily and without any coercion and undue influence.*

Statement of both the parties are attached herewith. The report is submitted please.

Thanking you,”

A perusal of the said report would show that 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. As per the said report, it has been observed that none of the petitioners were declared as proclaimed offender in the present case.

As per the above-reproduced report, there are five accused persons in the present case and the present petition has been filed by two accused and a prayer has been made by counsel for the petitioners as well as counsel for the complainant that the FIR be quashed qua the petitioners.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012**

(12) SCC 401; Parambir Singh Gill Vs. Malkiat Kaur reported as 2010(1) RCR (Criminal) 256; Gurtej Singh Vs. State of Haryana and another reported as 2010(3) RCR (Criminal) 660 and Sarabjeet Singh Vs. State of Punjab reported as 2007(3) RCR (Criminal) 479 to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioners/accused should be quashed as the same would not even remotely result in conviction of the said accused.

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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 97 dated 08.04.2020 under Sections 420 and 120-B of the Indian Penal Code, 1860 registered at Police Station City Fazilka, District Fazilka (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the present petitioners.

(VIKAS BAHL)
JUDGE

April 18th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No