

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-33909-2019
Decided on : 01.06.2022

Balwinder Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Naveen Sharma, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Arjun Veer Sharma, Advocate
for respondents No. 2 to 7.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 83 dated 12.04.2019 under Sections 452, 354, 323, 427, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Division No. 6, District Ludhiana (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 21.08.2019, a Coordinate Bench of this Court was pleased to pass the following order:-

“Heard.

Learned counsel for the petitioners submits that after registration of FIR, the dispute has been amicably settled vide compromise, copy of which has been placed on file as Annexure P-2.

Notice of motion.

Mr. Arjun Veer Sharma, Advocate, has put

in appearance on behalf of respondent No.2 to 7 and filed power of attorney on their behalf. He endorses submission of learned counsel for petitioner.

Parties may appear before concerned Illaqa/Duty Magistrate on 04.10.2019 or on any other date convenient to Illaqa/Duty Magistrate and get their statements recorded with regard to the compromise. The original compromise shall be produced before Illaqa/Duty Magistrate. In the event of their statements being recorded, Illaqa/Duty Magistrate will send copies of the same to this Court with his report:

- (i) regarding genuineness and voluntary nature of the compromise;*
- (ii) whether all the accused/petitioners are appearing before the Court or are on bail; and*
- (iii) whether accused/petitioners are facing trial/investigation/ enquiry in any other criminal case/proceedings.*

Report be awaited for 02.12.2019.

At this stage, learned counsel for the petitioners submits that due to clerical mistake, offence under Section 353 instead of 354 IPC has been mentioned in fourth line of page No.3, Para 12(i) on page No.7 and in the translated copy of FIR at page 11. The same be rectified.

Request allowed. Rectification is ordered to be made by replacing Section 353 with Section 354 IPC. Registry is directed to do the needful.

August 21, 2019

*Sd/-
(SURINDER GUPTA)
JUDGE"*

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

“5. As regards information required by the Hon'ble High Court

(i) Regarding genuineness and voluntary nature of the compromise.

The compromise thus appears to be genuine and valid and voluntary and without any any inducement, threat, coercion or undue pressure.

(ii) Whether all the accused/petitioners are appearing before the court or are on bail.

All the accused/petitioners are appearing before the court and challan against them stood presented on 31.10.2019 on which date they were admitted to bail in terms and compliance of order dated 06.05.2019 passed by the court Ms. Rashmi Sharma, Learned Additional Session Judge, Ludhiana and had furnished their bail bonds and surety bonds.

(iii) Whether accused/petitioners are facing trial/investigation/ enquiry in any other criminal case/proceedings?

As per report of the SHO, apart from the present case no other case has been registered against the accused/petitioners.

6. Accordingly, this report, along with attested

copies of statements of the parties, copy of compromise deed dated 03.08.2019 and copy of report of the SHO is submitted for your kind perusal.”

Alongwith the above report, the statements of Simran Devgan (respondent No. 2), Harsh Devgan (respondent No. 3), Balwinder Pal (respondent No. 4), Satwinder Kaur (respondent No. 5), Harjit Kaur @ Dimpily (respondent No. 6) and Sanjay Devgan @ Lucky (respondent No. 7), who are the complainants/victims have been recorded and all the said persons have supported the said compromise and have submitted that they have no objection in case the FIR is quashed. It is further stated that the statement of the complainants/victims 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 Nos. 2 to 7 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. 83 dated 12.04.2019 under Sections 452, 354, 323, 427, 506, 148 and 149 of the Indian Penal Code,1860 registered at Police Station Division No. 6, District Ludhiana (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

June 1st, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No