

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-40149-2022

Date of decision:29.09.2022

Kulwinder Kumar and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. J.S. Jaidka, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Vivek Aggarwal, Advocate for respondents No.2 to 5.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.106 dated 04.07.2022, registered under Sections 323,324,341,148 and 149 IPC at Police Station Lalru, District SAS Nagar, Mohali (Annexure P1) along with all other consequential proceedings arising therefrom on the basis of compromise dated 16.07.2022 (Annexure P-2).

On 05.09.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.106 dated 04.07.2022, registered under Sections 323, 324, 341, 148 and 149 IPC, at Police Station Lalru, District SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 29.09.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 21 days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

*(VIKAS BAHL)
JUDGE”*

September 05, 2022

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

“In view of the above said order, all the accused/Petitioners namely Kulwinder Kumar, Aman Kumar, Sonu @ Pawan Kumar, Monu @ Kamal, Raju @ Rajinder and Ram Karan @ Neelam Devi (complainant), Karmi @ Karamjit and Sandeep (injured) and Sachin Kumar (witness of occurrence) came present alongwith their respective counsels in the court and statements of both the parties have been recorded on 16.09.2022. After going through the statements of the parties and attested copy of compromise dated 16.07.2022, it is observed that the matter has been compromised between the parties voluntarily. All the grievances have been settled amicably between the parties without any coercion or undue influence.”

A perusal of the above said report would show that the petitioners and respondents No.2 to 5 have appeared and 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 further 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 respondents No.2 to 5 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.106 dated 04.07.2022, registered under Sections 323,324,341,148 and 149 IPC at Police Station Lalru, District SAS Nagar, Mohali (Annexure P1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

29.09.2022

Ishwar

**(VIKAS BAHL)
JUDGE**

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