

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.259

CRM-M-43650-2021

Date of Decision: August 22, 2022

Balwinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Gaurav Partap S. Pathania, Advocate for the petitioners.

Mr. P.S. Pandher AAG, Punjab.

Mr. Nagesh Paul, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.0204, dated 12.12.2020, under Sections 452, 323, 506 and 34 of the Indian Penal Code, registered at Police Station Shahpur Kandi, District Pathankot, and all other consequential proceedings arising therefrom on the basis of the compromise dated 20.08.2021 (Annexure P-2).

On 07.03.2022, this Court had passed the following order:-

“Present petition has been filed for quashing of FIR No.0204 dated 12.12.2020 registered under Sections 452, 323, 506 and 34 of the IPC at Police Station Shahpur Kandi, District Pathankot on the basis of compromise entered into between the parties.

Learned counsel for the petitioner submits that in order to live peacefully, parties have entered into compromise dated 20.08.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion was issued by a Coordinate Bench of this Court on 14.10.2021.

Mr. Nagesh Kumar Paul, Advocate appeared on behalf of respondent No.2. He admits the factum of the compromise entered

into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 06.05.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 29.03.2022 by moving appropriate application or by presenting this order. The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR,*
- 2. Whether any accused is a 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, and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.*

The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is to be quashed.”

Pursuant to the aforesaid order, report dated 15.07.2022 has been received from the Chief Judicial Magistrate, Pathankot. The relevant paragraph of the said report is as under:-

*“Keeping in view all aspects and statements of complainant and I.O. and all the 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.***
Report of this Court as under:-

(1) As per record, two persons namely Balwinder Singh and

Geetanjli are arrayed as accused in the FIR

(2) As per record, none of the accused has declared proclaimed offender in this case.

(3) Compromise effected between the parties is genuine, voluntarily and without any coercion or undue influence.

(4) As per record, none of the accused is involved in any other FIR

(5) As per statement of I.O., only one person is arrayed as complainant in the FIR and the complainant as well as accused are party to the compromise in question.

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

Yours faithfully,

*Manav,
Chief Judicial Magistrate,
Pathankot”*

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are two accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that none of the accused is declared as proclaimed offender and no other case has been registered against the accused persons except the FIR in question.

I have heard learned counsel for the parties and have also gone through the case 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 complainants. Since the matter has been settled and

the parties have decided to live in peace, this Court is of the view 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 view that the same was 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 the above, the petition is allowed and FIR No.0204, dated 12.12.2020, under Sections 452, 323, 506 and 34 of the Indian Penal Code, registered at Police Station Shahpur Kandi, District Pathankot, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

August 22, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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