

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(241)

CRM-M-35506-2019

Date of decision: - 14.10.2022

Tanya @ Sandeep Bhatti

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vishal Mittal, Advocate for
Mr. Digvijay Nagpal, Advocate
for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

Mr. Mandeep Singh, Advocate for
Mr. Manav Satija, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.0019 dated 24.01.2019, registered under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Civil Lines Patiala, Patiala, and all the consequential proceedings arising therefrom on the basis of compromise.

On 23.09.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioner and respondent no.2 have submitted that in the present case, there are three accused persons and the present petition has been filed by one accused, who is the present petitioner and have 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**, to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.*

Notice of motion for 14.10.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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

23.09.2022”

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

“From the aforesaid statements of the parties as well as Investigating Officer and report of concerned Ahlmad, the report of undersigned is submitted hereby:-

- i. There are three accused namely Tanya @ Sandeep Bhatti, Abdul Majid @ Ali and Shabana Feroj Suther, in the present FIR and out of them accused Tanya @ Sandeep Bhatti has appeared in the court and suffered statement before the court regarding compromise with the complainant and injured person.*
- ii. None of the accused is absconding or declared proclaimed offender in the case.*

iii. *It apparently appears that the parties have voluntarily entered into the compromise between themselves and have settled the matter amicably and said compromise appears to be genuine.*

iv. *All the accused have not been involved in any other FIR.*

v. *Statement of Investigating Officer ASI Gurpiar Singh No.2464-Patiala was recorded who stated that there is only on victim/complainant Rajwinder Singh in the present FIR."*

A perusal of the said report would show that although, there are three accused but only the petitioner has entered into compromise with the complainant and had appeared before the trial Court in support of the compromise to record their statements and accused namely Abdul majid @ Ali and Shabana Feroj Suther had not appeared, thus, there are other accused in the present case apart from the present petitioner. It is stated that the compromise entered between the said parties is genuine, voluntary and without any pressure.

Learned counsel for the petitioner 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**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2015** titled as **'Dalip Mandal and another Vs. State of U.T., Chandigarh and others'**, in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been

compromised between all the parties.

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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned trial Court, this Court finds that the matter has been amicably settled between petitioner 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, this petition is partly allowed and FIR No.0019 dated 24.01.2019, registered under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Civil Lines Patiala, Patiala, and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua petitioner.

October 14, 2022
S.Sharma(syr)

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No