

S.No.236

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45012 of 2021 (O&M)

Date of Decision:10.01.2022

Kulwinder Singh and another

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vikas Bali, Advocate for the petitioners.
Mr. Sukhbeer Singh, AAG, Punjab.
Mr. Bhisham Kumar Majoka, Advocate
for respondents No.2 and 3.

(Through Video Conferencing)

VIKAS BAHL, J.

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.98 dated 04.06.2017 registered under Sections 323, 341, 506, 34 IPC at Police Station Doraha, Police District Khanna, District Ludhiana and all the subsequent proceedings arising therefrom on the basis of compromise.

On 03.11.2021, this Court was pleased to pass the following order:-

“This is the petition under Section 482 Cr.P.C. for quashing of FIR no.98 dated 04.06.2017 registered under Sections 323, 341, 506, 34 IPC, at Police Station Doraha, Police District Khanna, District Ludhiana and all the subsequent proceedings arising therefrom on the basis of compromise dated 30.08.2021.

Learned counsel for the petitioner has submitted that in the present case, there were three accused persons, out of

whom, one accused namely Tarlok Singh has died and thus, the present petition is being filed by the remaining two accused. It is submitted that respondent no.2 is abroad and has given General Power of Attorney to his father Mohan Singh, who has also been made respondent no.3.

Notice of motion.

On advance notice, Mr.N.K.Banka, DAG, Punjab, appears and accepts notice on behalf of the State. Mr.Bhisham Kumar Majoka, Advocate, accepts notice on behalf of respondents no.2 (complainant) & also for respondent no.3. He states that in the present case, compromise has been effected and Mohan Singh (respondent no.3), father of Jagdish Singh (respondent no.2), is duly authorised by virtue of General Power of Attorney, to compromise the matter on behalf of respondent no.2. Further, reference has been made to the affidavit dated 24.08.2021 (Annexure P-3) which has been duly signed by respondent no.2 in which the factum with respect to compromise and there being no objection in case FIR is quashed, has been mentioned.

Accordingly, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 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.”*

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Payal. The relevant portion of the said report is reproduced hereinbelow:-

“A compromise has been effected between Kulwinder Singh, Ranjit Singh through him being Special Power of Attorney holder with the complainant Jagdish Singh S/o Mohan Singh through General Power of Attorney holder Sh. Mohan Singh without any pressure, coercion or any influence from any quarter and with their free will. The copy of the written compromise is Ex.3, which is admitted to be true and correct and he identified his signatures on the same. The copy of his Adhar card is Ex.D2. Further it is submitted that statement of Investigating Officer HC Charanjit Singh also recorded wherein he stated that in the present case name of complainant/ Victim is Jagdish Singh and apart

from Jagdish Singh, there is no other victim in the present case. The statements of the complainant namely Jagdish Singh (through his attorney Mohan Singh), accused namely Kulwinder Singh and Ranjit Singh (through his attorney Manjit Singh) in original are enclosed herewith.

It is further submitted hat as directed by the Hon'ble High Court, record was perused and it reveals that there are total persons arrayed as accused in the present FIR (out of which accused Ranjit Singh was declared P.O vide order dated 24.05.2019 passed by the Court of the then Ld. S.D.J.M., Payal and accused Tirlok Singh died during the trial) and the accused Kulwinder Singh is on bail. It is further submitted that from the perusal of the statements of the parties it appears that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. The accused persons are also not involved in any other FIR except the present FIR. Further as per the statement of HC Charanjit Singh, Investigating Officer, only Jagdish Singh is the complainant/ victim in the present case.

Submitted please.

Yours faithfully,

Sd/-

Chinu Sharma,

Judicial Magistrate Ist Class,

Payal/UID PB 0557”

A perusal of the said report would show that the compromise

has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused 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.

Learned counsel for respondent Nos.2 and 3 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 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”, reported as 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”, reported as 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.98 dated 04.06.2017 registered under Sections 323, 341, 506, 34 IPC at Police Station Doraha, Police Station Khanna, District Ludhiana and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

January 10, 2022

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(VIKAS BAHL)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No