

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.267

CRM-M-44858-2021

Date of Decision: September 26, 2022

Raj Kumar and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- None.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.0109, dated 05.08.2021, under Sections 427, 379, 149 of IPC and Section 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015), registered at Police Station Arniwala, District Fazilka and all other consequential proceedings arising therefrom on the basis of the compromise dated 12.08.2021 (Annexures P-2 and P-3).

Notice of motion was issued on 28.10.2021 and both the parties were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise. He/She was also directed to submit its report accordingly.

Pursuant to the aforesaid order, report dated 26.11.2021 has been received from the learned Judicial Magistrate 1st Class, Fazilka, to the effect that the complainant-respondent No.2 did not appear to get his statement recorded. Therefore, the report regarding the genuineness of

the compromise could not be submitted. Thereafter, an application was filed for grant of one opportunity to get the statements of the parties recorded in pursuance of the order dated 28.10.2021. The said application was allowed by this Court vide order dated 07.09.2022 and one more opportunity was granted to the parties to get their statements recorded. Pursuant to the said order, report dated 22.09.022 has been received from the learned Judicial Magistrate 1st Class, Fazilka. 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 and the compromise effected between them is genuine, without any undue influence and coercion. It is also stated in the report that there are 11 accused. It is also stated in the report that none of the accused has been declared as proclaimed offender and also not involved in any other case.

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 petitioner(s) and the complainant(s). 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.0109, dated 05.08.2021, under Sections 427, 379, 149 of IPC and Section 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (Amendment 2015), registered at Police Station Arniwala, District Fazilka and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

September 26, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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