

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34931-2019

Date of decision : 25.03.2022

Teg Ali @ Tegu and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sahil Parmar, Advocate
for Mr. Sandeep Arora, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.10 dated 15.04.2017 registered under Sections 436, 427, 323, 34 IPC at Police Station Narot Jaimal Singh, District Pathankot and all other consequential proceedings arising therefrom on the basis of compromise.

On 27.09.2019, a coordinate Bench of this Court was pleased to pass the following order:-

“This petition has been filed seeking quashing of FIR no.10 dated 15.04.2017, registered at Police Station Narot Jaimal Singh, District Pathankot, for the alleged commission of the offences punishable under Sections 436, 427, 323, 34 of the IPC (as also all other subsequent proceedings arising therefrom), on the basis of a compromise arrived at between the petitioners and respondent no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Ms. Ruchika Sabharwal,

learned AAG, Punjab, accepts notice on behalf of respondent no.1.

A copy of the petition be handed to her during the course of the day.

Adjourned to 17.12.2019.

Respondent no.2 be served by way of ordinary process.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned Area Magistrate/trial Court (as the case may be) up to 05.11.2019 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners.

27.09.2019

**(AMOL RATTAN SINGH)
JUDGE"**

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

"From the statement of parties, it appears that parties have effected compromise with each other voluntarily and without any pressure or coercion. No accused is declared proclaimed person in this case. No other accused as per investigation report is involved in this occurrence nor any other victim. Accused Masoom Ali suffered statement that one other FIR bearing No.9 dated 15.04.2017 under Section 363, 366-A IPC is registered against him and others by Saleema who is wife of complainant Sharif.

Yours faithfully,

*(Rajinderpal Singh Gill)
Judicial Magistrate Ist Class,
Pathankot"*

A perusal of the above said report would show that the petitioners and complainant-respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine and out of free will. Although perusal of said report would show that there is one more case against petitioner no.2 but the same should not come in the way of quashing of present FIR as the compromise has been found genuine, voluntary and out of free will.

Learned counsel for the petitioners has submitted that they 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.

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.10 dated 15.04.2017 registered under Sections 436, 427, 323, 34 IPC at Police Station Narot Jaimal Singh, District Pathankot and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 25, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No