

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-41523-2022

Date of decision:23.09.2022

Chirag and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ankur Bansal, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Ruhani Chadha, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.56 dated 17.04.2022 registered under Sections 379-B, 34 IPC at Police Station Maqsudan, District Jalandhar Rural (Annexure P-1) along with all other consequential proceedings arising therefrom on the basis of compromise arrived at between the parties (Annexure P-2).

On 12.09.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.56 dated 17.04.2022 registered under Sections 379-B, 34 IPC at Police Station Maqsudan, District Jalandhar (Rural) and all other consequential proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioners has submitted that in the present case, there are three accused persons and the present petition has been filed by two accused persons and 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 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 23.09.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent no.1. Mr. Ruhani Chadha, Advocate, appears on behalf of complainant-respondent no.2 and admits the factum of compromise.

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)

September 12, 2022

JUDGE"

In pursuance to the said order, a report has been submitted by

Additional District and Sessions Judge, Jalandhar. The relevant portion of the said report is reproduced hereinbelow:-

"In view of the above statements, the point-wise report is being submitted as follows:

Point no.1. Number of persons arrayed as accused in the FIR?"

It is submitted that two persons namely Soni alias Raja and Chirag alias Sukhi are arrayed as accused in the present case.

Point no.2. Whether any of the accused is proclaimed offender?

In this regard, it is submitted that both accused namely Soni alias Raja and Chirag alias Sukhi are appearing in this case in the court and none of the accused is proclaimed offender.

Point no.3. Whether the compromise is genuine, voluntary

and without any coercion or undue influence?

In this regard, it is submitted that keeping in view the statements of parties, this court is of the considered view that compromise effected between the parties i.e. complainant Gautam Malhotra and accused namely Soni alias Raja and Chirag alias Sukhi is genuine, voluntary and without any coercion or undue influence.

Point no.4 Whether the accused persons are involved in any other FIR or not?

It is submitted that as per statement made by ASI Nirmal Singh, Investigating Officer, one more case i.e. FIR No.53 dated 18.4.2020 under Sections 269/270/188 IPC and Section 51-B of Disaster Management Act registered at Police Station Maqsudan, is registered against accused Chirag son of Raj Kumar, whereas no other case is registered against accused Sony alias Raja.

Point no.5. As to how many victims/complainants are there in the FIR, as per statement of Investigating officer?

As per the statement made by ASI Nirmal Singh, Gautam Malhotra is the only victim/complainant in the present case.

The report is accordingly submitted please for your kind perusal.

Submitted please,

Yours faithfully,

(Yukti Goyal)

Addl. Sessions Judge, Jalandhar UID

No.PB-0220”

A perusal of the above said report would show that the petitioners and complainant/respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners 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.

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 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 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:-

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.56 dated 17.04.2022 registered under Sections 379-B, 34 IPC at Police Station Maqsudan, District Jalandhar Rural (Annexure P-1) along with all other consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

23.09.2022
Ishwar

(VIKAS BAHL)
JUDGE

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