

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-46037-2021

Date of decision : 04.04.2022

Baldev Shah alias Baldev Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S. S. Gill, Advocate, for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Anterpreet Singh, Advocate, and
Mr. B. S. Randhawa, 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.0208 dated 14.09.2020 registered under Sections 336, 427, 148, 149 IPC & Section 25 & 27 of Arms Act, 1959 at Police Station Majitha District Amritsar Rural (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 17.08.2021 (Annexure P-2)

On 25.11.2021, this Court was pleased to pass the following order:-

“ This is a petition filed under Section 482 of Cr.P.C., for quashing of FIR no.0208 dated 14.09.2020 registered under Sections 336, 427, 148, 149 IPC & Section 25 & 27 of Arms Act, 1959 at Police Station Majitha District Amritsar Rural (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 17.08.2021 (Annexure P-2).

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 16.12.2021.

On asking of the Court, Mr. Sarabjit Singh, AAG, Punjab

appears and accepts notice on behalf of the respondent-State and Mr. Anterpreet Singh, Advocate, appears on behalf of respondent No.2.

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.*

SD/-

25.11.2021

**(VIKAS BAHL)
JUDGE”**

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

“ I am satisfied that compromise is genuine and has been effected between the parties voluntarily, without any coercion or undue influence. It is further submitted that as per the statement of investigating officer ASI Sukhwant Singh No.147/ASR (Rural), Police Station Majitha, Amritsar, there are four accused involved in the present case namely Baldev Shah @ Baldev Singh, Vikramjit Singh @ Bikramjit Singh, Jugal Kishore, and Akashdeep Singh. The accused never been declared as proclaimed offender in the present case. Accused Jugal Kishore is involved in three other cases bearing FIR No.23/2016, under Section 452 IPC, Police Station Majitha, Amritsar, FIR No.36/2020 under Sections 25/54/59 of Arms Act, Police Station Majitha, Amritsar and another FIR No.233/2021, under Section 21/27A/61.85 NDPS Act and 25/54/59 of Arms Act, Police Station Maqboolpura, Amritsar, other than the present case. No other case has been registered against accused Baldev Shah @ Baldev Singh and Vikramjit Singh @ Bikramjit Singh, except the present case. There is only one complainant victim namely Astina there in the present.

The report is being submitted please.

Thanking you.

Yours Faithfully

Sd/-

(Gursher Siongh)

*Judicial Magistrate First Class
Amritsar.*

UID No.PB0380 ”

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, voluntary and out of free will.

Learned counsel for the petitioners as well as learned counsel for respondent no.2 have submitted that in the present case, there are four accused out of which compromise has been effected with two accused who have filed the present petition and thus, the present case is a case of partial compromise. Learned counsel for the petitioners 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 petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2018 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 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:-

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.0208 dated 14.09.2020 registered under Sections 336, 427, 148, 149 IPC & Section 25 & 27 of Arms Act, 1959 at Police Station Majitha District Amritsar Rural and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

04.04.2022
anil

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No