

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42145-2020

Date of decision : 02.06.2022

Sukhdev Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vaneet Soni, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Nikhil Vats, Advocate
for respondent nos.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no. 0147 dated 09.10.2020 registered under Section 279, 337, 338 IPC at Police Station Khuian Sarwar, District Fazilka and all other consequential proceedings arising therefrom on the basis of compromise.

On 15.12.2020, a coordinate Bench of this Court was pleased to pass the following order:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between the petitioner and respondents no. 2 and 3, of FIR no. 0147, dated 09.10.2010, registered at Police Station Khuian Sarwar, District Fazilka, for the alleged commission of offences punishable under Sections 279/337/338 of the IPC, as also all other subsequent proceedings arising therefrom . A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab, accepts notice at the asking of the court on behalf of respondent no.1.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

Respondents no. 2 and 3 be served by way of normal process by the next date of hearing.

Adjourned to 24.02.2021.

In the meanwhile, the petitioner, as also respondents no. 2 and 3, would appear before the learned trial court/Ilaqa Magistrate upto 14.01.2021, to record their statements. The trial court/Ilaqa Magistrate would satisfy itself/ herself/himself 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/her/his 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.

Learned State counsel would also verify whether there are any criminal cases, of like nature or otherwise, pending against the petitioner(s).

A gazetted officer is also directed to file a reply to the petition.

December 15, 2020

**(AMOL RATTAN SINGH)
JUDGE"**

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

"Therefore, on the basis of the above-mentioned statements, the report of this court is submitted as under:

- This court is satisfied that the compromise in the present case is valid, genuine, voluntary and without any coercion or undue influence or pressure;*
- There are two complainants in the present case whose name are Vicky Kumar son of Mithu Singh and Deepak Kumar son of Fakir Chand*

- *There is only one accused in the present case whose name is Sukhdev Singh son of Sh. Chuhar Singh*
 - *There is no other accused/person involved in the present occurrence who is not a party to the present petition and whose consent for the compromise would be required.*
3. *The original statements of all the parties of the case mentioned above are attached herewith. The report is hereby submitted please for your kind perusal.*

Dated: 14.01.2021 Yours faithfully,

*(Sumit Sabharwal),
Judicial Magistrate Ist Class,
Abohar*

Encl: Original statements of the parties. ”

A perusal of the above said report would show that the petitioner and respondent nos.2 and 3 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioner.

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.

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. 0147 dated 09.10.2020 registered under Section 279, 337, 338 IPC at Police Station Khuian Sarwar, District Fazilka and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

June 02, 2022.

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No