

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(247)

CRM-M-36193-2019

Date of decision: - 29.03.2022

Bhupender Singh Brar and another

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Bhupinder Ghai, Advocate,
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Kiranpal Rana, Advocate
for Mr. Mohit Kakkar, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.201 dated 16.09.2018, registered under Sections 457, 380, 447 & 427 IPC, at Police Station City South, District Moga and all the subsequent proceedings arising therefrom on the basis of compromise.

On 30.08.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Present petition under Section 482 Cr.P.C. for seeking quashing of FIR No. 201 dated 16.09.2018, registered under Section(s) 457, 380, 447 & 427 IPC at Police Station City South, District Moga on the basis of compromise dated 26.07.2018 (Annexure

P1).

Learned counsel for the petitioners contended that the parties have amicably settled their disputes with the intervention of the respectables.

Notice of motion.

On asking of the Court, Ms. Monika Jalota, Deputy Advocate General, Punjab accepts notice on behalf of respondent(s) No. 1. Mr. Mohit Kakkar, Advocate, who is present in the Court, has put in appearance on behalf of respondent(s) No. 2 and affirmed the fact of compromise effected between the parties.

In view of the matter, the parties are directed to appear before the trial Court/Area Judicial Magistrate on 23.09.2019 for getting their statements recorded with regard to the compromise arrived at between them.

The learned trial Court is directed to indicate (i) how many total accused are facing the trial, (ii) whether any of the accused was declared proclaimed offender at any stage of trial (iii) status/stage of the trial/case, (iv) to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and (v) to send its report to this Court through District and Sessions Judge, before the next date of hearing.

Adjourned to 13.11.2019.

(Shekher Dhawan)
Judge

August 30, 2019.”

In pursuance of the said order, the report has been submitted by the Chief Judicial Magistrate, Moga, to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“From the statements of above said accused and complainant recorded in the court, it is forth coming that a compromise has been effected between above said complainant and accused. As per the statements of above said persons, further it is submitted as under: -

I. No accused was declared proclaimed offender at any stage of

trial.

- II. Remand papers of above said FIR are pending in the court of undersigned for 22.10.2019 at the stage of awaiting challan.*
- III. The compromise effected between the complainant and accused is genuine, voluntary and without any coercion or undue influence.*

Report submitted, please.

*Please find enclosed.
Statements of the parties*

Yours faithfully

*(Amandeep Kaur Chahal), PCS,
Chief Judicial Magistrate,
Moga."*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that the petitioners have not been declared proclaimed offenders. Learned counsel for the State, as per instructions, has stated that this fact is correct.

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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.201 dated 16.09.2018, registered under Sections 457, 380, 447 & 427 IPC, at Police Station City South, District Moga and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

March 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No