

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.246

CRM-M-42417-2020

Date of Decision: 05.09.2022

Harjinder Singh & ors.

...Petitioners

Versus

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. J.S. Grewal, Advocate for the petitioners.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Piyush Sharma, Advocate,
for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.174, dated 28.11.2020, under Sections 336, 323, 506, 34 of the IPC and Sections 25 and 27 of the Arms Act, registered at Police Station Bahawala, Tehsil Abohar, District Fazilka, and all other consequential proceedings arising therefrom on the basis of the compromise deed dated 30.11.2020 (Annexure P-2).

On 17.12.2020, this Court had passed the following order:-

“The case is taken up through video conferencing on account of COVID 2019.

By filing this petition, quashing of FIR No.174 dated 28.11.2020 registered under Sections 336, 323, 506, 34 IPC and under Sections 25, 27 of Arms Act at Police Station Bahawala, Tehsil Abohar, District Fazilka and all other consequent proceedings arising therefrom qua petitioners has been sought on the basis of compromise.

Notice of motion.

Mr. Amit Mehta, DAG Punjab accepts notice on behalf of respondent No. 1 State.

Parties may appear before learned Illaqa Magistrate/Duty Magistrate, Abohar on 15.1.2021 or any other date convenient to said Court and get their statements recorded with regard to compromise. The original compromise shall be produced before the said court. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report :

- i) regarding genuineness and voluntary nature of compromise ;
- ii) whether all accused/petitioners are appearing before the Court or are on bail; and
- iii) whether any other proceeding is pending against the accused/ petitioners.

Adjourned to 19.2.2021.”

Pursuant to the aforesaid order, report dated 21.01.2021 has been received from Judicial Magistrate Ist Class, Abohar. The relevant paragraph of the said report is as under:-

“1. The compromise arrived at between the complainant Dhalwinder Singh as well as accused Harjinder Singh, Sukhjeet Singh and Lakhwinder Singh @ Gursahab Singh @ Saba is genuine, voluntary and without any coercion or undue influence, being outcome of their free will and consent.

2. As per record, challan in the present case has not been presented and even the accused have not been arrested by the police. The accused have appeared before this Court first time for getting their statements recorded and none of them is on bail in this case.

3. *As per record, there is no other proceeding pending against the accused before this Court.*

The copies of statements of parties are attached for kind perusal and oblige. Hence this report.

Submitted please.

Yours Sincerely,

*Daleep Kumar, PCS
Judicial Magistrate Ist Class,
Abohar. UID No.PB0428*

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed. It is stated in the report that there are three accused persons and the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. It is also stated in the report that none of the accused is declared as proclaimed offender and no other case has been registered against the accused persons except the FIR in question.

I have heard learned counsel for the parties and have also gone through the case 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 complainants. Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view that the same was 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 the above, the petition is allowed and FIR No.174, dated 28.11.2020, under Sections 336, 323, 506, 34 of the IPC and

Sections 25 and 27 of the Arms Act, registered at Police Station Bahawala, Tehsil Abohar, District Fazilka, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

05.09.2022

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(AMAN CHAUDHARY)
JUDGE

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