

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43153-2022

Date of decision : 12.10.2022

Avinash Kumar @ Abnash and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ramandeep Singh, Advocate
for the petitioners.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr. Shivam Chaudhary, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of complaint No.COMI/68/2017 & CIS No.68/2017 dated 08.08.2017, under Sections 452, 447, 427, 341, 379, 323, 380, 506 and 34 IPC, instituted by respondent No.2 and all other consequential proceedings arising therefrom on the basis of compromise.

On 19.09.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of complaint No.COMI/68/2017 & CIS No.68/2017 dated 08.08.2017, under Sections 452, 447, 427, 341, 379, 323, 380, 506 and 34 IPC, instituted by respondent No.2 and all other consequential proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 12.10.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1 and Mr. Mr. Shivam Chaudhary, appears and accepts notice on behalf of 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 15 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/case.*

September 19, 2022 **(VIKAS BAHL)**
JUDGE”

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

“(i) As per record and the statement of complainant Veena Kumari there are seven persons namely Avinash Kumar alias Abnash, Vishal Kumar, Kanta Devi, Bihari Lal, Surinder Pal alias Sunder Kumar, Suneh alias Saneh Lata and Manoj Kumar who arrayed as accused in the present complaint

(ii) As per record and the statement of accused/petitioners at present none of accused has been declared proclaimed offender in the present case.

(iii) In view of the statement recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion or undue influence.

(iv) As per record and the statement of accused/petitioners and record, none of accused is involved in any other FIR.

(v) The present case is private complaint which was filed by the complainant Veena Kumari and as per record there is no investigating officer in the same. As per statement of complainant there is no other complainant/victims in the present complaint case except the present complainant namely Veena Kumari.”

A perusal of the above said report would show that the petitioners and respondent no.2 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 counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offender in the present case.

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:-

“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 complaint No.COMI/68/2017 & CIS No.68/2017 dated 08.08.2017, under Sections 452, 447, 427, 341, 379, 323, 380, 506 and 34 IPC and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

October 12, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No