

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47328-2021

Date of decision:22.09.2022

Amit Kumar Sharma

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gagandeep Singh Virk, Advocate, for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Harkeerat Singh Bhogal, Advocate for respondents No.
2 to 5.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.140 dated 27.08.2020 registered under Sections 420, 465,467,468,471 and 120-B of the Indian Penal Code, 1860 (Annexure P-1) at Police Station City Jalalabad, District Fazilka and all the subsequent proceedings arising therefrom on the basis of compromise dated 10.03.2021 (Annexure P-2).

On 11.11.2021, 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.140 dated 27.08.2020 registered under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (Annexure P-1) at Police Station City Jalalabad, District Fazilka and all the subsequent proceedings arising therefrom on the basis of compromise dated 10.03.2021 (Annexure P-2).

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

Notice of motion for 18.01.2022.

On asking of the Court, Mr. N.K. Banka, Deputy Advocate General, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Harkeerat Singh Bhogal, Advocate appears on behalf of respondent Nos.2 to 5.

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.*

(VIKAS BAHL)

11.11.2021

JUDGE”

In pursuance of the said order, the report has been submitted by Sub Divisional Judicial Magistrate, Jalalabad (West) to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

- (1) In the present case as per the report of Investigating Officer, there are two persons namely Amit Kumar Sharma and Sunaina Sharma arrayed as accused in the present FIR.*
- (2) In the present case as per the statement of the parties and Investigating Officer and Ahlmad, none of the accused has been declared as proclaimed offender by this Court.*
- (3) The compromise effected between the parties is genuine, voluntarily and without any coercion and undue influence.*
- (4) In the present case as per the statement of parties and Investigating Officer, no FIR is pending against the accused except the present FIR.*
- (5) In the present case as per the statement of the*

Investigating Officer, there are four victims/ complainants namely Vikas Kumar, Sajjan Kumar, Vikram Singh and Rajiv Kumar in the present FIR.

xxxx xxxx

Yours faithfully,

(Ramneet Kaur)
Sub-Divisional Judicial Magistrate,
Jalalabad (West)
UID PB0326"

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 complaint in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntary and without any pressure.

A perusal of the report would also show that there are two accused persons, but only one accused (petitioner) has filed the present petition.

Learned counsel for the petitioner as well as learned counsel appearing for respondents No.2 to 5 have submitted that there are other accused also, but the compromise has been effected between the present petitioner and the victims/complainant only.

Learned counsel for the petitioner 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 petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2015** 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 petitioner only although, the matter had not been compromised between all the parties.

Learned counsel for respondents No.2 to 5 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 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.

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.140 dated 27.08.2020 registered under Sections 420, 465,467,468,471 and 120-B of the Indian Penal Code, 1860 (Annexure P-1) at Police Station City Jalalabad, District Fazilka along with all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

22.09.2022

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Whether reasoned/speaking?

Whether reportable?

(VIKAS BAHL)

JUDGE

Yes/No

Yes/No