

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(325)

CRM-M-47467-2021

Date of decision:- 01.12.2022

Manikaran Bawa @ Mani

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Jatinder Singh Gill, Advocate,
for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Sehajpreet Singh Khalsa, Advocate
for Mr. Vinay Kumar, 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.105 dated 24.08.2018, registered under Sections 451, 323 and 506 of the Indian Penal Code, 1860, at Police Station Kathunangal, District Amritsar on the basis of compromise.

On 16.11.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Present petition has been filed for quashing of FIR No.105 dated 24.08.2018 registered under Sections 451, 323 and 506 of the Indian Penal Code, 1860 at Police Station Kathunangal, District

Amritsar, qua the petitioner on the basis of compromise entered into between the parties.

Learned counsel for the petitioner argues that in order to live peacefully, parties have entered into compromise on 29.09.2021 (Annexure P-2), according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of respondent No. 1.

Mr. Vinay Kumar, Advocate, who is also present in the Court, accepts notice on behalf of respondent No.2-complainant. He admits the factum of the compromise entered into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 24.01.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 02.12.2021 by moving appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR,*
- 2. Whether any accused is a 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, and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.*

The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is to be quashed.

November 16, 2021

(HARSIMRAN SINGH SETHI)
JUDGE”

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

“The report is as under:-

- (1) The number of persons arrayed as accused in the FIR is three namely Manikaran Bawa, Sandeep Kumar and Jaskarandeep Singh @ Jassu.*
- (2) As per the report of the Ahlmad, no proclamation proceedings were initiated against the petitioner or any other accused person.*
- (3) After perusing the statements of the parties, this Court is satisfied that the compromise between the petitioner/accused and respondent No.2 is genuine, voluntary and without any coercion or undue influence.*
- (4) As per the statement of the Investigating Officer, there is no other FIR against the petitioner/accused.*
- (5) As per the statement of the Investigating Officer, there is only one victim/complainant in the present FIR whereas there are three accused persons i.e. the petitioner Manikaran Bawa, Sandeep Kumar and Jaskarandeep Singh @ Jassu. That, the complainant and one of the accused namely Manikaran Bawa are the only parties to the compromise in question.”*

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. A perusal of the report would further show that in the present case, there are three accused persons

whereas one accused has filed the present petition.

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 petitioners only although, the matter had not been compromised between all the parties.

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 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

qua the present petitioner.

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.105 dated 24.08.2018, registered under Sections

451, 323 and 506 of the Indian Penal Code, 1860, at Police Station Kathunangal, District Amritsar and all the subsequent proceedings emanating therefrom, are ordered to be quashed/set aside, qua the petitioner.

December 01, 2022

naresh.k/sunena

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No