

123

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-19261-2022 in/and
CRM-M-47601-2021 (O&M)
Date of decision : 25.05.2022

Tarsem Singh @ Makhan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rohit Kumar, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Amit Parashar, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-19261-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 21.09.2022 to an early date.

Learned counsel for the applicant-petitioner has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab,

appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Amit Parashar, Advocate appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 21.09.2022 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 21.09.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.38 dated 09.03.2016 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Dayalpura, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 11.10.2021 (Annexure P-2).

On 15.11.2021, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.38 dated 09.03.2016 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Dayalpura, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 11.10.2021 (Annexure P-2).

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

Notice of motion for 17.01.2022.

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. Amit Parashar, Advocate appears on behalf of respondent No.2.

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.”*

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Phul. The relevant portion of the said report is reproduced hereinbelow:-

“The statement of Investigating Officer has also been recorded. Further, in reply to above said query, it is submitted as under:

- 1 As per record, there is only one person arrayed as accused.*
- 2. As per record, the accused has not been declared as proclaimed offender.*
- 3. The compromise arrived at between the complainant Sukhwant Kaur as well as accused Tarsem Singh @ Makhan Singh is genuine, voluntary and without any coercion or undue influence, being outcome of their free*

will and consent.

4. As per report of Ahlmad, the accused has not been involved in any other FIR, except the present one.

5. As per statement of Investigating Officer, there is only one victim/complainant Sukhwant Kaur in the present case.

Copies of the statements are attached for kind perusal and oblige.

Hence, this report.

Submitted please.

Yours Sincerely,

Sd/- Daleep Kumar, PCS

Judicial Magistrate Ist Class,

Phul. UID No. PB0428”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and there are no other cases pending against the petitioner. Learned counsel for the State, as per instructions has stated that these facts are 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

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 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**”, reported as **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**”, reported as **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, the petition is allowed and FIR No.38 dated 09.03.2016 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Dayalpura, District Bathinda (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

25.05.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No