

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

249

CRM-M-43412-2020
Decided on : 29.04.2022

Manish Rai and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. S. K. Raghuwanshi, Advocate for
Mr. Vijay Lath, Advocate
for the petitioners.

Mr. Sidakmeet S. Sandhu, AAG, Punjab.

Mr. Lovish Rattan, Advocate for
Mr. Surender Sharma, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR No. 129 dated 08.10.2019 under Sections 323, 384, 148, 149, 506,
120-B and 364-A of the Indian Penal Code, 1860 registered at Police
Station Phase-11, Mohali, District SAS Nagar (Annexure P-1) and all
subsequent proceedings arising on the basis of the compromise.

On 09.02.2021, a Coordinate Bench of this Court was
pleased to pass the following order:-

“Case heard by video conferencing.

By this petition, the petitioners seek

quashing of FIR No.129, dated 08.10.2019, registered at Police Station Phase-II, Mohali, alleging therein the commission of the offences punishable under Sections 323, 384, 148, 506, 120-B and 364-A of the IPC, as also all other subsequent proceedings arising therefrom, on the basis of a compromise (Annexure P-2), arrived at between the petitioners and respondent no.2.

This court (co-ordinate Bench) having asked learned counsel for the petitioners to address arguments on the maintainability of the petition in view of the seriousness of the allegation in the FIR (with regard to the alleged commission of an offence punishable under Section 364-A of the IPC), he submits that, firstly, petitioner no.1 is 19 years old and that he and respondent no.2 were actually friends, with some dispute having arisen due to which the FIR was registered rather late, with actually an offence only punishable under Section 323 of the IPC made out, but with the more serious offence having been added only to harass the petitioners.

However, be that as it may, he submits that the petitioners and respondent no.2 having settled the matter amicably amongst themselves, with there being no criminal antecedents of the petitioners to suggest that they could have forced such compromise, the FIR may be quashed on the said basis.

*He refers to the judgement of the Supreme Court in “**Narinder Singh and others vs. State of Punjab and another**”, 2014 (2) RCR(Crl.) 482, from where he wishes to point to the 'last guideline' given by their lordships, which reads as*

follows:-

“On the basis of the prima facie analysis, the High court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

Notice of motion.

On the asking of the Court, Mr. Sandeep Singh Deol, DAG, Punjab, accepts notice on behalf of the respondent State, with Mr. Surender Sharma, Advocate, appearing for respondent no.2 and also accepting notice. He submits that that the complainant does not wish to pursue criminal proceedings against the petitioners.

Learned counsel for respondent no.2 would file a power of attorney issued in his favour in the Registry, within one week, failing which notice be issued to respondent no.2, upon filing of process fee, which would be returnable on 07.05.2021.

A copy of the petition be e-mailed to them today itself by learned counsel for the petitioners.

In the meanwhile, the petitioners, as also respondent no.2, would appear before the learned

Area Magistrate/trial Court (as the case may be) up to 08.03.2021 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is also directed to file a reply on behalf of the State stating therein, amongst other things, as to whether any other criminal case stands registered against the petitioners and the status thereof as of today. Thereafter it would be considered whether the FIR can be quashed on the basis of the compromise reached, in terms of the guidelines laid down by the Supreme court in Narinder Singh (supra), and whether this court should exercise jurisdiction under Section 482 of the Cr.P.C. for that purpose.

*Sd/-
February 09, 2021 (AMOL RATTAN SINGH)
JUDGE”*

In pursuance of the said order, a report has been submitted by the District & Sessions Judge, SAS Nagar, Mohali to the Registrar General of this Court. The relevant portion of the said report is

reproduced hereinbelow:-

“On the basis of record and aforesaid statements, my report containing the information, as sought by the Hon'ble High Court, is as under:

- 1. From the statements of the parties, this Court is satisfied that the compromise effected between them, is genuine, voluntary and without any kind of pressure or undue influence.*
- 2. In the present FIR no. 129 dated 08.10.2019, U/Ss 323, 364A, 384, 148, 149, 506, 120-B of IPC, registered at Police Station Phase-11, SAS Nagar (Mohali), at the instance of complainant Ram Chander, persons namely Munish Rai @ Manish, Harpreet Singh @ Pathi, Pavittar Singh and Bagga, were arrayed as accused.*

xxx—xxx--xxx

Investigating officer further stated that no accused has been declared proclaimed offender in the case in hand.

- 3. From the statements of the parties, and statement of the investigating officer, coupled with record of this case, it is evident that no other person is involved in the occurrence, who was not party to the abovesaid petition before Hon'ble High Court and whose consent for the compromise would be required, if Hon'ble High Court comes to the conclusion that the FIR sought to be quashed, can be so*

quashed. It is pertinent to mention here that fourth accused Bagga has already been found innocent by the police in the case in hand, so his consent for the compromise in question, is not required at all.

The report is hereby submitted as desired, please.”

Reply by way of affidavit of Deputy Superintendent of Police, City-II, District SAS Nagar has also been submitted on behalf of respondent No. 1-State.

A perusal of the above report would show that it has been stated that the statements of Complainant as well as the petitioners have been recorded in the case and they 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 petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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, the petition is allowed and FIR No. 129 dated 08.10.2019 under Sections 323, 384, 148, 149, 506, 120-B and 364-A of the Indian Penal Code,1860 registered at Police Station Phase-11, Mohali, District SAS Nagar (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

April 29th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No