

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-38653-2019
Decided on : 07.04.2022

Parmjit Kaur Mahant @ Preety and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Amandeep Singh Rehal, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Harkaran Singh, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 0001 dated 02.01.2019 under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Morinda, District Rupnagar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise.

When the matter came up before a Coordinate Bench of this Court on 11.09.2019, the following order was passed:

*“This petition has been filed seeking quashing of
FIR no.0001 dated 02.01.2019 registered at Police Station*

City Morinda, District Rupnagar, for the alleged commission of offences punishable under Section 323, 341, 506, 148, 149 of the IPC, (as also all other subsequent proceedings arising therefrom), on the basis of a compromise arrived at between the petitioners and respondent no.2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion be issued to the respondents.

On the asking of the Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of respondent no.1 and Mr. Harkaran Singh, Advocate appears and accepts notice on behalf of respondent no.2. A copy of the petition be handed to them during the course of the day.

Adjourned to 09.12.2019.

In the meanwhile, the petitioners, as also respondent no.2 would appear before the learned Area Magistrate up to 29.10.2019 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.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioners.

*Sd/-
(AMOL RATTAN SINGH)
JUDGE”*

11.09.2019

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Rupnagar to the Registrar Judicial of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“From the statement of complainant Ghughi Mahant and joint statement of accused Paramjit Kaur Mahant @ Preeti, Seema Mahant, Himanshu as mentioned above, it makes out that the complainant Ghughi Mahant and accused Paramjit Kaur Mahant @ Preeti, Seema Mahant, Himanshu have compromised the matter with their free Will and full senses, for the betterment of the parties. So this compromise between complainant Ghughi Mahant and accused Paramjit Kaur Mahant @ Preeti, Seema Mahant, Himanshu i.e. parties to the petition appears to be genuine & valid and outcome of their free consent and is without coercion from any quarter.

However, as per aforementioned statement of Investigating Officer ASI Kulwinder Singh, there is one other accused namely Mehak Mahant in this case but she is neither the party to the present Petition pending before Hon'ble Punjab and Haryana High Court, per memo of parties received to undersigned, nor she has got recorded any statement qua any compromise in the present case. Therefore, no report can be submitted by this Court qua any compromise with accused Mehak Mahant in this case. This report is submitted accordingly.

Thanking you,”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioners

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. As per the said report, it has been observed that none of the petitioners were declared as proclaimed offender in the present case.

As per the above-reproduced report, there are four accused persons in the present case and the present petition has been filed by three accused and a prayer has been made by counsel for the petitioners as well as counsel for the complainant that the FIR be quashed qua the petitioners.

Learned counsel for the petitioners 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 petitioners/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** 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.

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. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No. 0001 dated 02.01.2019 under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Morinda, District Rupnagar (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

April 7th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No