

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(275)

CRM-M-49193-2021

Date of decision: - 14.10.2022

Sukhwinder Singh @ Nikka

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- None for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

Mr. Vishal Munjal, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.172 dated 08.11.2017 under Sections 406, 420 IPC and Section 24 of Immigration Act registered at Police Station Mukerian, District Hoshiarpur and all other consequential proceedings arising therefrom on the basis of compromise.

On 24.11.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“CRM No.39815 of 2021

Learned counsel for the applicant-petitioner seeks permission to withdraw the instant application.

Resultantly, the same stands dismissed for having been withdrawn.

CRM-M No.49193 of 2021

The petitioner herein seeks the quashing of the FIR bearing

No.172 dated 08.11.2017 registered at Police Station Mukerian, District Hoshiarpur, under Sections 406 and 420 IPC and Section 24 of the Immigration Act and all the consequential proceedings arising therefrom, while averring that the parties have arrived at a compromise qua their dispute, culminating in the registration of the said FIR.

Learned counsel for the petitioner, inter-alia, contends that the subject FIR had been got registered due to some misunderstanding between the parties and now, with the intervention of the respectables, the parties have amicably settled their dispute and the said settlement/ compromise would promote cordial, harmonious and peaceful relations between them.

Notice of motion.

Mr. Sukhbeer Singh, learned Assistant Advocate General, Punjab, who has appeared on behalf of respondent No.1 in this case in pursuance of the copy of the present petition having been sent to the respondent-State in advance, accepts the notice.

Mr. Vishal Munjal, Advocate, has also appeared on behalf of respondent No.2-complainant and has submitted his Power of Attorney in the Court and the same has been placed on the record. He accepts the notice on behalf of the said respondent and also confirms the factum of the compromise having been effected between the parties in the present matter.

Accordingly, the private parties are directed to appear before the Illaqa Magistrate/trial Court on 25.01.2022 for recording their statements in respect of the compromise stated to have been arrived at between them. The Illaqa Magistrate/trial Court shall submit the report on or before 24.02.2022 specifying therein the following:-

- 1. the number of the accused arraigned in the FIR and how many of them have appeared and have made statements qua the compromise:*
- 2. whether any accused is absconding or has been declared PO/Proclaimed Person in this case:*
- 3. the name(s) of the complainant and injured/ aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 4. the stage of the trial/proceedings;*
- 5. whether the compromise is genuine, voluntary and has*

been arrived at between the parties out of their free will;

6. *whether any other criminal case is pending against any of the accused.*

The trial Court/Illaqa Magistrate is further directed to record the statement of the Investigating Officer regarding the number of the accused as well as of the victims/complainants/aggrieved persons in the subject FIR.

Report of Illaqa Magistrate/trial Court be awaited for the date fixed.

(MEENAKSHI I.MEHTA)
JUDGE

24.11.2021”

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

“In view of the statement so made by complainant Satpal Kaur, I am of the considered opinion that parties have entered into compromise voluntarily and without any threat, coercion or pressure and their compromise is genuine one and complainant Satpal Kaur has made her statement in the Court voluntarily and without any pressure. The complainant has no objection if the FIR is quashed against accused. The statement of complainant Satpal Kaur, accused Sukhwinder Singh alias Nikka, Investigating Officers namely Avtar Singh and Jasbir Singh and copy of Aadhaar Card of complainant and accused are enclosed herewith.”

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, voluntarily and without any coercion or undue influence. However, the report reveals that the petitioner has been declared as proclaimed person in the present

FIR vide order dated 11.07.2018 and one FIR No.171 dated 07.11.2017 registered at Police Station Mukerian is also pending against the petitioner.

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.

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.172 dated 08.11.2017 under Sections 406, 420 IPC and Section 24 of Immigration Act registered at Police Station Mukerian, District Hoshiarpur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

October 14, 2022
S.Sharma(syr)

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No