

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CRM-M-49552-2021
Decided on : 02.03.2022

Parminder Singh

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL
(Through Video Conferencing)

PRESENT: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

Mr. Barjinder Singh, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 322 dated 30.10.2021 under Section 420 of the Indian Penal Code, 1860 registered at Police Station City Kapurthala, District Kapurthala (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 26.11.2021, the following order was passed:

“This petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.322 dated 30.10.2021 under Section 420 of the IPC registered at Police Station City Kapurthala, District Kapurthala (Annexure P-1), and all subsequent proceedings arising therefrom, on the basis of compromise.

[2]. Ld. counsel for the petitioner refers to Compromise (Annexure P-2), and states that the matter has been amicably settled between the parties.

[3]. Notice of motion.

[4]. Mr. R.S. Khaira, Assistant Advocate General, Punjab to accept notice on behalf of respondent No.1/State.

[5]. At this stage, Mr. Barjinder Singh, Advocate has put in appearance on behalf of respondent No.2-complainant through V.C. and admits the factum of compromise. He further undertakes to file his Power of Attorney on the next date of hearing.

[6]. Let requisite number of copies of the Paperbook be supplied to both the counsel.

[7]. In view of the matter, the parties shall appear before the Trial Court/Illaq Magistrate on 15.12.2021, for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether any of the accused has been declared proclaimed offender in the case.

[8]. List on 02.03.2022.

26.11.2021

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(SUDIP AHLUWALIA)

JUDGE”

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

“5) So in this way, on the basis of the statements made by both the parties it has become crystal clear that:

a) The compromise has been effected between complainant namely Mohinder Singh and accused namely Parminder Singh, which is genuine, voluntarily and without any coercion or undue influence.

b) As per statement of Investigating Officer and complainant the FIR has been registered against two accused namely Parminder Singh Khurana S/o Kuldeep Singh and Tarun Sharma S/o Narinder Kumar Sharma. Except the above said accused persons no other person has been cited as an accused in this case

c) As per statement of Investigating Officer no accused has been declared as proclaimed offender in this case.

The attested copy of recorded statements of the parties along with copy of their respective I.D. proofs are enclosed herewith.

This is for your kind information and persual, please.”

A perusal of the said report would show that 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. As per the said report, it has been observed that the petitioner was never declared as proclaimed offenders in the present case.

As per the above-reproduced report, there are two accused persons in the present case and the present petition has been filed only on behalf of one petitioner i.e. Parminder Singh and a prayer has been made by counsel for the petitioner as well as counsel for the complainant that the FIR qua the petitioner be quashed.

Learned counsel for the petitioners and respondent No.2 have 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 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.

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 bring 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 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. 322 dated 30.10.2021 under Section 420 of the Indian Penal Code, 1860 registered at Police Station City Kapurthala, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

March 2nd, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No