

114

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

CRM-M-39342-2019

Date of decision : 22.03.2022

Harpreet Singh @ Happy Dodhi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sarabjit S. Cheema, AAG, Punjab.

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

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.215 dated 09.12.2018 registered under Sections 326/323/324/148/149 of the Indian Penal Code, 1860 at Police Station Majitha, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise effected between the parties.

On 16.09.2019, a Coordinate Bench of this Court was pleased

to pass the following order:-

“Heard.

Learned counsel for the petitioner submits that the dispute has been amicably settled vide compromise, copy of which has been placed on file as Annexure P2.

Notice of motion.

Ms. Pushpinder Kaur, Advocate, has put in appearance on behalf of respondent No.2, filed power of attorney and endorses the submission of learned counsel for the petitioner.

Parties may appear before concerned Illaqa/Duty Magistrate on 27.11.2019 or on any other date convenient to Illaqa/Duty Magistrate and get their statements recorded with regard to the compromise. The original compromise shall be produced before Illaqa/Duty Magistrate. In the event of their statements being recorded, Illaqa/Duty Magistrate will send copies of the same to this Court with his report:

- (i) regarding genuineness and voluntary nature of the compromise;*
- (ii) whether the petitioner is appearing before the Court or is on bail;*
- (iii) whether accused/petitioner is facing trial/investigation/ enquiry in any other criminal case/proceedings; and*
- (iv) whether all the victim(s) in this case have entered into compromise with the petitioner(s).*

Report be awaited for 22.01.2020

Sd/-(SURINDER GUPTA)

September 16, 2019

JUDGE ”

In pursuance of the abovesaid order, a report has been

submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“In compliance with the above mentioned Criminal Miscellaneous, statement of complainant Harpreet Singh @ Happy Dodhi has been recorded, who has averred that the matter at hand has been compromised with the accused person and statement has been given by him without any coercion, threat or pressure. Copy of his Aadhar Ex.PA, in proof of his identity, is appended herewith.

On the other hand, statement of accused Sukhbir Singh has also been recorded, who has averred that the matter at hand has been compromised with the complainant and statement given by him without any coercion, threat or pressure. Copy of his Aadhar Card is Mark-A in proof of his identity, which is appended herewith.

ASI Mukhtair Singh No.1561 ASR (Rural) posted at P.S. Majitha, Amritsar (Rural) has also made a separate statement that as per their record, there is one complainant and two accused. Accused have been released on bail. There is no other criminal case/proceedings pending in any court of law.

In these circumstances, I am of the view that the compromise between the parties has been arrived at voluntarily, is genuine and bonafide and not a result of pressure or coercion.

Submitted please.

Yours faithfully,

Sd/- (Gursher Singh, PCS)

Judicial Magistrate Ist Class,

Amritsar UID No.PB0380”

As per the said report, there are two accused persons whereas the present petition has been filed only by one accused-Harpreet Singh.

Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012 (12) SCC 401** to contend that even partial compromise is permissible.

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.215 dated 09.12.2018 registered under Sections 326/323/324/148/149 of IPC at Police Station Majitha, District Amritsar Rural (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 order.

22.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No