

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-51297-2021

Date of decision : 02.08.2022

Ravinder Kumar @ Ravi and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Parvesh Sachdeva, Advocate
for the petitioners.

Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Aazam Khan, Advocate for
Mr.Yogesh Kumar Raheja, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR no.207 dated 03.11.2020 registered under Sections 342, 323, 427, 506,
34 IPC at Police Station Khui Khera, District Fazilka and all other
consequential proceedings arising therefrom on the basis of compromise.

On 09.12.2021, a coordinate Bench of this Court was pleased to
pass the following order:-

*“Present petition has been filed for quashing of FIR No.
207 dated 03.11.2020, registered under Sections 342, 323, 427,
506, 34 IPC at Police Station Khui Khera, District Fazilka, on the
basis of compromise entered into between the parties.*

*Learned counsel for the petitioners submits that in order to
live peacefully, parties have entered into compromise on
18.10.2021(Annexure P-2), according to which, both the parties
have agreed not to proceed further with the FIR in question.*

Notice of motion.

Mr. Kirat Singh Sidhu, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, accepts notice on behalf of respondent No. 1

Mr. Yogesh Kumar Raheja, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of respondent No. 2/complainant. He admits the factum of the compromise entered into between the parties and raises no objection, in case the FIR in question is quashed on the basis of the said compromise.

Adjourned to 17.02.2022. In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 06.01.2022 by moving appropriate application or by presenting this order.

The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR,*
- 2. Whether any accused is a proclaimed offender,*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence,*
- 4. Whether the accused persons are involved in any other FIR or not, and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.*

The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is to be quashed.

December 09, 2021

***(HARSIMRAN SINGH SETHI)
JUDGE”***

In pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, Fazilka. The relevant portion of the said report is reproduced hereinbelow:-

“5. In compliance to the aforesaid order dated 09 12.2021 of Hon'ble Punjab and Haryana High Court, it is respectfully

submitted that the point-wise report of undersigned is as follows:

i. It is respectfully submitted that the present FIR was registered against four persons namely accused (1) Ravinder Kumar @ Ravi son of Mohinder Ram. (2) Ankit son of Kana Ram. (3) Mangi Lal son of Hari Ram. (4) Kulwinder Singh son of Bhim Sain, all residents of village Khippanwali, P.S. Khui Khera. District Fazilka. ii. It is further submitted that as per report of investigating officer, none of the accused person has been declared proclaimed offender in this case.

iii. It is further submitted that in view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is genuine and has been entered into by the parties voluntarily without any pressure or coercion.

iv. It is respectfully submitted that as per report of the investigating officer no any other proceeding/FIR is pending against the accused petitioners.

v. It is further respectfully submitted that statement of investigating officer was got recorded and as per his statement there is no other complainant or aggrieved party other than complainant Rajesh Kumar in this case and the present FIR was registered against accused namely (1) Ravinder Kumar (@ Ravi son of Mohinder Ram. (2) Ankit son of Kana Ram, (3) Mangi Lal son of Hari Ram, (4) Kulwinder Singh son of Bhim Sain, who are petitioners before the Hon'ble Punjab & Haryana High Court.

6. As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself.

Submitted Please

Yours faithfully.

*(Prabhjot Bhatti),PCS,
Judicial Magistrate Ist class,
Fazilka UID No. PB0635"*

A perusal of the above said report would show that the petitioners and respondent no.2 (complainant) have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offenders in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

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 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.”

Keeping in view of the above said facts and circumstances, this petition is allowed and FIR no.207 dated 03.11.2020 registered under Sections 342, 323, 427, 506, 34 IPC at Police Station Khui Khera, District Fazilka and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

August 02, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No