

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-46282-2022

Date of decision:14.11.2022

Gurjant Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. H.S. Randhawa, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

None for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of criminal complaint No.13 dated 07.02.2013 instituted at the instance of complainant-respondent No.2 for offence under Sections 420, 120-B IPC (Annexure P-1) along with subsequent proceedings emanating therefrom including the summoning order dated 04.10.2016 passed by the SDJM, Moonak, under Section 420, 120B IPC (Annexure P-2), on the basis of compromise.

On 11.10.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of criminal complaint no.13 dated 07.02.2013 instituted at the instance of complainant-respondent no.2 for offence under Sections 420, 120-B IPC along with subsequent proceedings emanating therefrom including the summoning order dated 04.10.2016 passed by the SDJM, Moonak, under Section 420, 120B IPC, on the basis of compromise.

Learned counsel for the petitioners has prayed that

since both the petitioners are residing abroad thus, statement on behalf of the petitioners be permitted to be made through their Special Power of Attorney Holder Jaspal Kaur daughter of Harbhajan Singh, who is the real sister of petitioner no.1 and the sister-in-law of petitioner no.2. It is submitted that the petitioners will produce the said Special Power of Attorney before the trial Court. The trial Court would permit the petitioners to appear through their Special Power of Attorney after verifying the Special Power of Attorney. The complainant-respondent no.2 would, however, appear in person in support of the compromise.

Notice of motion for 14.11.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent no.1.

The parties are directed to appear before the trial Court for recording their statements qua compromise within a period of one month.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information: -

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is 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?*

(VIKAS BAHL)

October 11, 2022

JUDGE”

In pursuance to the said order, a report has been submitted by Judicial Magistrate 1st Class, Moonak (Sangrur). The relevant portion of the said report is reproduced hereinbelow:-

“....As per their statements, my report as desired is as under: -

- (i) As per the statement of parties, there are two accused persons namely Gurjant Singh son of Harbhajan Singh and Inderjeet Kaur wife of Gurjant Singh both residents of 23 Concetta St. Denman Prospect 2611 in the Australian Capital Territory.*
- (ii) As per the statement of parties, the accused persons have never been declared as proclaimed offender in this case.*
- (iii) As per the statement of parties, the compromise appears to be genuine, entered into voluntarily and without any coercion and undue influence.*
- (iv) As per the statement of parties, no other FIR*

against accused persons has been lodged except the present case.

Report is submitted please,

Yours faithfully,

Gurinder Pal Singh

Judicial Magistrate 1st Class,

Moonak (Sangrur) (UID-PB0483).

A perusal of the above said report would show that the petitioners and complainant-respondent No.2 have appeared and 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 further 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.

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.”

In view of what has been discussed hereinabove, this petition is allowed and criminal complaint No.13 dated 07.02.2013 instituted at the instance of complainant-respondent No.2 for offence under Sections 420, 120-B IPC (Annexure P-1) along with subsequent proceedings emanating therefrom including the summoning order dated 04.10.2016 passed by the SDJM, Moonak, under Section 420, 120B IPC (Annexure P-2), are ordered to be quashed qua the petitioners.

14.11.2022

Ishwar

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No