

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-46918-2022

Date of decision : 30.11.2022

Jobanpreet Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aashima Narula, Advocate for
Mr.Vaibhav Narang, Advocate
for the petitioner.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr.Devansh Khanna, 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.122 dated 27.08.2020, registered under Sections 420, 465, 467, 468 and 471 IPC and Section 13(1) of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Division C, District Police Commissionerate, Amritsar and all other consequential proceedings arising therefrom on the basis of compromise.

On 28.10.2022, this Court was pleased to pass the following order:-

“Learned counsel for the parties has submitted that one last opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 30.11.2022.

The parties are directed to appear before the Illaqa

Magistrate/trial Court for recording their statements qua compromise within a period of four weeks from today.

The Illaqa Magistrate/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?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

However, since the statement of the parties could not be recorded in spite of giving direction, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioner in the High Court Lawyers' Welfare Fund , within a period of four weeks from today.

The trial Court shall only record the statements of parties on production of receipt of said payment.

It is made clear that if the said amount is not deposited within the stipulated period of time, then the present petition would be deemed to have been dismissed.

28.10.2022 ”

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

“As per the directions of Hon'ble Punjab and Haryana High Court at Chandigarh in the above mentioned application for quashing of FIR, petitioner/accused Jobanpreet Singh furnished the photocopy of receipt of Rs 5000/- deposited in the High Court Lawyers Welfare Fund and the accused and complainant Devendra got recorded their statements. After going through the statements of both the parties I am of the considered view that the compromise is genuine, voluntarily and out of free will of the parties. It is further informed that I.O. of the case appeared and

got recorded his statement to the effect that an another FIR No. 70 dated 08.03.2021, under-section 307/34 IPC, 25/27/54/59 Arms Act, Police Station B-Division is pending against the accused. That there is only one complainant Devendra Kumar and the accused Jobanpreet Singh is the only person involved in the occurrence and he has never been declared as proclaimed offender. ”

A perusal of the above said report would show that the petitioner and respondent no.2 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 petitioner has further submitted that the petitioner was not declared proclaimed offender 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.

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***”, 2007 (3) RCR (Criminal) 1052, it

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 FIR No.122 dated 27.08.2020, registered under Sections 420, 465, 467, 468 and 471 IPC and Section 13(1) of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Division C, District Police Commissionerate, Amritsar and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

November 30, 2022.

Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No