

287

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

CRM-M-46852-2022

Date of decision : 31.10.2022

Divanshu Soni @ Ishu and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vipul Goel, Advocate and
Mr. Rajan Dewan, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Rajat Malhotra, 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.151 dated 06.09.2017, registered under Sections 365, 323, 506 and 34 IPC, at Police Station Haibowal, District Police Commissionerate, Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise.

On 12.10.2022, this Court had passed the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.151 dated 06.09.2017, registered under Sections 365, 323, 506 and 34 IPC, at Police Station Haibowal, District Police Commissionerate, Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 31.10.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1 and Mr. Manjeet Singh, Advocate for Mr. Rajat Malhotra, Advocate, appears and accepts notice on behalf of respondent No.2 and admits the factum of compromise.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of two 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.”*

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

“(1) Three persons namely Divnashu Soni @ Ishu, Monty Kakar and Ashwani Puri (Ashwani Puri has since expired and proceedings against him were abated) are arrayed as accused in this FIR.

2) None of the accused has been declared as proclaimed absconder in this case.

3)The compromise arrived between the parties is genuine, voluntary and without any coercion or undue influence.

4) None of the accused are involved in any other FIR.”

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 petitioners has submitted that the petitioners were not declared proclaimed offender in the present case. Learned counsel for the State, as per instructions has stated that the said fact is 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 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**”, 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.151 dated 06.09.2017, registered under Sections 365, 323, 506 and 34 IPC, at Police Station Haibowal, District Police Commissionerate, Ludhiana and all other consequential proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

31.10.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No