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

CRM-M-48637-2022

Date of decision : 15.11.2022

Pushap Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.K. Choudhary, Advocate for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

Mr. Gurmej Singh Bhinder, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.148 dated 16.10.2021 registered under Sections 420, 120-B of the Indian Penal Code, 1860, Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 and Section 24 of the Immigration Act, at Police Station Division No.1, District Pathankot and all the subsequent proceedings arising therefrom on the basis of compromise.

On 27.10.2022, this Court had passed the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.148 dated 16.10.2021 registered under Sections 420, 120-B of the Indian Penal Code, 1860, Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 and Section 24 of the Immigration Act, at Police Station Division No.1, District Pathankot and all the subsequent proceedings arising therefrom on the basis of compromise.

*Learned counsel for the petitioner has submitted that in the present case, there are three accused persons, out of which, one accused person i.e. the present petitioner has filed the present petition for quashing of FIR on the basis of compromise and thus, the present case is a case of partial compromise and has relied upon 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 in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.*

Notice of motion for 15.11.2022.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Gurmej Singh Bhinder, Advocate appears on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

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 Additional Chief Judicial Magistrate, Pathankot. The relevant portion of the said report is reproduced hereinbelow:-

“6. It is further submitted that there are one complainant namely Manpreet Singh and two accused namely Pushap Kumar and Rahul Kumar have been arrayed in the FIR. Only accused Pushap Kumar and complainant suffered their statements regarding compromise and perusal of compromise shows that accused Pushap Kumar and complainant Manpreet Singh are party and signatory to said compromise Mark A. It is further submitted that none of the accused has been declared as proclaimed offender and accused are not 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.

A perusal of the abovesaid report would also show that in the present case, there are two accused persons, out of which, one accused person i.e. the present petitioner has filed the present petition for quashing of FIR on the basis of compromise and thus, the present case is a case of partial compromise and has relied upon 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 in case of a partial compromise, FIR can be quashed qua the accused with whom the

compromise has been effected.

Learned counsel for the petitioner has submitted that the petitioner was 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 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.148 dated 16.10.2021 registered under Sections 420, 120-B of the Indian Penal Code, 1860, Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 and Section 24 of the Immigration Act, at Police Station Division No.1, District Pathankot 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 judgment.

15.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No