

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

CRM-M-48102-2022

Date of decision : 03.11.2022

Amrit Pal Singh and others

...Petitioners

Versus

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: None.

VIKAS BAHL, J. (ORAL)

Today, the Lawyers have decided to abstain from appearing in the Court because of the call given by the Bar Association.

This is a petition under Section 482 of Cr.P.C. for quashing of cross case registered vide DDR No.016 dated 01.11.2021 u/s 323, 326, 148, 149 IPC at Police Station City Phagwara, Kapurthala in FIR no.185 dated 01.08.2021 registered under Sections 307, 326, 324, 341, 506, 148, 149 IPC and Sections 25, 27 of the Arms Act at Police Station City Phagwara, Kapurthala, and all the subsequent proceedings arising therefrom on the basis of compromise.

On 17.10.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of cross case registered vide GD No.16 dated 01.11.2021 under Sections 323, 326, 148, 149 of IPC at Police Station City Phagwara,

Kapurthala in FIR No.185 dated 01.08.2021 registered under Sections 307, 326, 324, 341, 506, 148, 149 of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station City Phagwara, Kapurthala and all the subsequent 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. It is further submitted that the parties are only seeking quashing of General Diary No.16. Notice of motion for 03.11.2022.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State and Ms. Arti Kaur, Advocate appears on behalf of respondent No.2 and has reiterated the abovesaid facts as stated by learned counsel for the petitioners.

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

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.*

17.10.2022”

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

“Hence, in view of the statement suffered by the parties and the Investigating Officer, the requisite information as desired by the Hon ble High Court is as under:

- 1. Total six accused have been arrayed in the present GDR namely Amritpal Singh, Harish Verma, Manpreet Singh @*

Mani, Balbir Singh Riyat, Balvinder Singh and Jaswant Singh.

2. As per statement of I.O. no person was declared P.O. in this case.

3. The compromise effected between 5 accused namely Amritpal Singh, Harish Verma, Manpreet Singh @ Mani, Balbir Singh Riyat, Balvinder Singh and complainant Narinder son of Vijay Kumar is genuine, voluntarily and without any coercion and undue influence.

4. As per statement of I.O., no other case is registered against accused at Police Station City, Phagwara.

5. As per statement of Investigating Officer, there is only one complainant/victim Narinder son of Vijay Kumar in this cross case.”

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 has further been stated that in all there are six accused persons out of which five persons have filed the present petition.

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.

The Hon'ble Supreme Court in a case titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as **2012 (12) SCC 401**, has held that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused

should be quashed as the same would not even remotely result in conviction of the said accused.

The Co-ordinate Bench of this Court in the judgment dated 04.07.2019 passed in CRM-M-16318-2018 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 DDR No.016 dated 01.11.2021 u/s 323, 326, 148, 149 IPC at Police Station City Phagwara, Kapurthala in FIR no.185 dated 01.08.2021 registered under Sections 307, 326, 324, 341, 506, 148,149 IPC and Sections 25, 27 of the Arms Act at Police Station City Phagwara, Kapurthala, and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

03.11.2022

Davinder Kumar

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No