

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(285)

CRM-M-42755-2019

Date of decision: - 08.08.2022

Gurbaj Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Naveen Jhajholia, Advocate
for Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vaibhav Sharma, 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.88 dated 08.09.2016, registered under Sections 436, 427, 323 and 506 of the Indian Penal Code, 1860 at Police Station Bhadson, District Patiala and all the subsequent proceedings arising therefrom on the basis of compromise.

On 04.02.2020, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this petition is for quashing of the FIR in question on the basis of the compromise entered into between the parties.

Notice of motion.

At this stage, Mr. Vaibhav Sharma, Advocate puts in

appearance on behalf of respondent No. 2/complainant and files his Vakalatnama. He admits to the factum of compromise entered into between the parties.

List again on 13.05.2020.

In the meantime, the parties are directed to appear before the trial Court/Illaqa Magistrate for recording of their statements with regard to compromise/settlement within a period of 30 days from today.

The trial Court/Illaqa Magistrate 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 in FIR,*
- 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.*

(ARVIND SINGH SANGWAN)
JUDGE

04.02.2020”

In pursuance of the said order, the report has been submitted by the Additional Sessions Judge, Patiala to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“But, now as per statements of parties recorded before the Court, they are shown to have compromised the matter with each other. In accordance with the compromise, accused is shown to have given the disputed house to the informant to live. He has assured to deposit sum of Rs.60000 within the period of six months in the name of her daughters namely Neelam and Mamta, failing which informant shall stay in the disputed house and shall be having right to dispose of the same. On account of payment of said amount she has agreed to vacate the house. Similarly, statement has been suffered by accused Gurbaj Singh (Annex.IV).

Further, in accordance with the complaint lodged by the informant FIR has been registered against her husband only i.e., accused Gurbaj Singh alone. The said accused is facing trial before this court. No accused has been declared proclaimed offender by this court. In accordance with the statement suffered by the informant in the presence of her counsel as well as accused, considering the dispute amongst husband and wife, the compromise seems to be genuine, voluntarily, without any coercion and undue influence. In accordance with the statement suffered by ASI Rajinder Singh (Annex. V) as per record one FIR No.92 dt.29.7.2002 under Section 452, 354 IPC was registered against the accused facing trial before the court. However, in the said FIR untrace report has already been accepted by the ld. Ilaqa Magistrate on dated 3.2.2004. Further, as per statement of aforesaid official, as per record informant Beena is the only complainant/ victim in the instant FIR.

Submitted please.

Yours faithfully,

*(Rajvinder Singh)
Addl. Sessions Judge,
Patiala (PB0184)"*

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioner has submitted that the petitioner has not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this 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 parties.

This Court has heard the learned counsel for the parties and has perused the file.

After perusing the report submitted by the learned 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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.88 dated 08.09.2016, registered under Sections 436, 427, 323 and 506 of the Indian Penal Code, 1860 at Police Station Bhadson, District Patiala and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 08, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No