

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.246

CRM-M-42507-2019

Date of Decision: September 06, 2022

Mohammad Jameel and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Saqib Ali Khan, Advocate for the petitioners.

Mr. Kamal Preet Singh Bawa, AAG, Punjab.

Mr. Sarvesh Kumar Gupta, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.22, dated 03.03.2019, under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, registered at Police Station City-II, Malerkotla, District Sangrur, and all other consequential proceedings arising therefrom on the basis of the compromise affidavit dated 10.09.2019 (Annexure P-2).

On 03.10.2019, this Court had passed the following order:-

“Learned counsel for the petitioners contends that matter has been compromised between the parties.

Notice of motion.

On the asking of the Court, Mr. H.S. Multani, AAG Punjab accepts notice on behalf of respondent No.1-State.

Mr. Amit Thakur, Advocate, who is present in the Court, appears and files Power of Attorney on behalf of respondent No.2 and the same is taken on record. He acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned

counsel for the respondents during the course of the day.

Petitioners shall file their affidavit(s) before learned trial Court that there is no other criminal case pending against them and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

In view of above, let the parties be appeared before the Court of learned Illaqa Magistrate/trial Court on 24.10.2019 to record their statements with reference to the compromise, if any, entered into between them. Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court, before the next date of hearing, containing the following information:-

(i) Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii) Whether the compromise effected between the parties is genuine and valid?

(iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?

(iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?

(v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?

(vi) Whether any of the petitioner(s) is/are previous convict or not?

List before this Court on 18.11.2019, for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

A copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.”

Pursuant to the aforesaid order, report dated 14.11.2019 was received from the Judicial Magistrate 1st Class, Malerkotla (Duty) stating therein that the parties had not appeared before the Court concerned for recording their respective statements with regard to the compromise

effected between them. Thereafter, this Court vide order dated 29.03.2022, directed the learned Illaqa Magistrate concerned to record their statements in terms of the order dated 03.10.2019. Pursuant thereto, report dated 16.04.2022 has been received from the learned Sub Divisional Judicial Magistrate, Malerkotla. The relevant paragraph of the said report is as under:-

“In view of the statements of the complainant Aarif Jamil and accused Mohd. Nadeem, Shakil ahmed and Mohd. Shabir @ Sheera, it is apparent that the matter has been compromised between them. As per statements of parties, the compromise is genuine, voluntarily and without any coercion or undue influence.”

A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed.

I have heard learned counsel for the parties and have also gone through the case 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 complainants. Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view that the same was 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 the above, the petition is allowed and FIR No.22,

dated 03.03.2019, under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, registered at Police Station City-II, Malerkotla, District Sangrur, and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

September 06, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No