

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(236)

CRM-M-53681-2021

Date of decision: - 21.02.2022

Nitish Ghai

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gagandeep Singh Virk, Advocate, for the petitioner.

Mr. Karanbir Singh, AAG, Punjab, for respondent No.1.

Mr. Ruhani Chadha, Advocate, for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.267 dated 01.09.2018 registered under Section 420 of the Indian Penal Code, 1860, Section 10/24 of the Immigration Act and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station Division No.7, District Ludhiana (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 22.12.2021, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.267 dated 01.09.2018 registered under Section 420 of the Indian Penal Code, 1860, Section 10/24 of the Immigration Act and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station Division No.7, District Ludhiana (Annexure P-

1) and all the subsequent proceedings arising therefrom on the basis of compromise in the form of duly sworn affidavit dated 11.10.2018 (Annexure P-2).

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

Notice of motion for 31.01.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the respondent-State and Mr. Ruhani Chadha, 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 said order, the report has been submitted by the Judicial Magistrate (1st Class), Ludhiana to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Statement of the Investigating Officer of this case namely SI Sukhwinder Singh, was also recorded on 21.01.2022 and he had accordingly stated to the effect that he was the Investigating Officer of the present case and there is one complainant/victim namely Raj Singh in the present FIR. He further stated to the effect that there is one accused named in the FIR i.e. Nitish Ghai S/o Pawan Kumar. He further stated that the accused was not P.O in the present case. He further submitted that there are total 100 FIRs against the present

accused in different police stations.

4. *Respected Sir, based upon the aforesaid material made available on record, the report, as sought for by the Hon'ble High Court is submitted as under: -*

i) *As per the statement of the I.O. SI Sukhwinder Singh there is only person arrayed as accused in the present FIR.*

ii) *Further as per the statement of I.O. the accused is not P.O in this case.*

iii) *From the aforementioned statements of the parties, which were got recorded by the Court, it clearly appears that the compromise between the parties is genuine, voluntary and the same has been effected between the parties without any pressure, coercion or undue influence.*

iv) *As per the statement of the I.O. there are total 100 FIRs registered against the present accused in different police stations, copy of which is attached to this report.*

v) *As per the statement of the I.O. there is only one complainant/victim namely Raj Singh in this FIR.*

Report is submitted as desired, please.

Dated: 24.01.2022

*Varundeep Chopra
Judicial Magistrate 1st Class
Ludhiana
(UID No.PB0467)*

Encl: Statement of the complainant, accused and I.O., copy of list of FIRs against the accused of this case."

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. Further perusal of the report would show that the petitioner is involved in many other cases, however, the same would not come in the way of quashing of present petition as the compromise between the parties has been found to be genuine, voluntary,

without any pressure, coercion or undue influence.

Learned counsel for the petitioner has pointed out that in all the said cases also, the compromise has been effected and in some cases, petition for quashing of the FIR on the basis of compromise has been filed and in some cases has to be filed.

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 feel 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 what has been discussed hereinabove, this petition is allowed and FIR No.267 dated 01.09.2018 registered under Section 420 of the Indian Penal Code, 1860, Section 10/24 of the Immigration Act and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 at Police Station Division No.7, District Ludhiana (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

February 21, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No