

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

283

CRM-M-50836-2022
Decided on : 14.12.2022

Harnek Singh

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Ankur Bansal, Advocate for
Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Ms. Srishti Sharma, Advocate for
Mr. Rahul Bhargava, Advocate
for respondent No. 2-complainant.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 56 dated 27.05.2012 under Sections 323, 452, 148, 149, 427 and 506 of the Indian Penal Code, 1860 registered at Police Station Kartarpur, District Jalandhar as well as the impugned order dated 10.01.2017 (Annexure P-3) passed by the Judicial Magistrate 1st Class, Jalandhar whereby the petitioner has been declared as a proclaimed offender and all subsequent proceedings arising therefrom on the basis of the compromise.

On 21.11.2022, this Court was pleased to pass the following order:-

“This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.56 dated 27.05.2012, registered under Sections 323, 452, 148, 149, 427 and 506 IPC, at Police Station Kartarpur, District Jalandhar as well as impugned order dated 10.01.2017 (Annexure P-3) passed by the Judicial Magistrate 1st Class, Jalandhar, whereby the petitioner has been declared as a proclaimed offender and all other consequential proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 14.12.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1 and Ms. Srishti Sharma, Advocate for Mr. Rahul Bhargav, Advocate, appears and accepts notice on behalf of respondent Nos.2 and 3 and admits the factum of compromise.

Learned counsel for the petitioner as well as learned counsel for respondents No.2 and 3 have jointly submitted that respondent No.2/Iqbal Singh Atwal has authorized power attorney holder Harjeet Singh Atwal to enter into the compromise and has further submitted that they would produce the original power of attorney before the trial Court and also file an affidavit of respondent No.2/Iqbal Singh Atwal supporting the factum of compromise. It is also jointly submitted that the parties would get their statements recorded within a period of 21 days from today.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 21 days from today.

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.*

Till the next date of hearing, the operation of impugned order dated 10.01.2017 (Annexure P-3) shall remain stayed.

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(VIKAS BAHL)
JUDGE”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Jalandhar to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“1. In this case FIR no. 56 dated 27.05.2012 U/S 323, 452, 148, 149, 427, 5506 IPC of PS, Kartarpur was lodged on the complaint of Iqbal Singh son of Sansar Singh R/o Singh Pur, PS Kartarpur, Jalandhar. The FIR was lodged against 08 accused persons namely:-

- (I) Harbhajan Singh son of Chanan Singh,*
- (II) Rajinder Singh son of Sardul Singh,*
- (III) Amritpal Singh son of Harbhajan Singh,*
- (IV) Baljit Singh son of Rajinder Singh,*
- (V) Harnek Singh son of Jaswinder Singh,*
- (VI) Amritpal Singh son of Ranjit Singh,*
- (VII) Jaswinder Singh son of Sardul Singh,*
- (VIII) Gagandeep Singh son of Avtar singh*

2. At this stage, no accused is proclaimed offender in this case.

3. The compromise between the complainant and applicant is genuine, voluntarily and without any coercion or undue influence.

4. As per the statement of ST Rashpal Singh, SHO PS Bhogpur Jalandhar (recorded on 08.12.2022) no other FIR is pending against the accused Harnek Singh.

5. As per the statement of Inspector Ramandeep Singh SHO PS Kartarpur, Jalandhar (recorded on 08.12.2022), apart from the complainant namely Iqbal Singh and injured Ranjit Singh there is no any other complainant or injured/victim in this case.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the petitioner 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. As per the said report, it has been observed that the petitioner was never declared as proclaimed offender in the present case.

Learned counsel for the petitioner has submitted that the petitioner was never declared as proclaimed offender in the present case and no other FIR is pending against him.

Learned State counsel has reaffirmed the said facts.

As per the above-reproduced report, there are 8 accused persons in the present case and the present petition has been filed only on behalf of one petitioner i.e. Harnek Singh and a prayer has been

made by counsel for the petitioner as well as counsel for the complainant that the FIR qua the petitioner be quashed.

Learned counsel for the petitioner and respondent No.2 have relied upon the judgment of the Hon'ble Supreme Court titled as *Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another*, reported as 2012 (12) SCC 401, to contend 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.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in *CRM-M-16318-2015* titled as *Dalip Mandal and another Vs. State of U.T., Chandigarh and others* in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 bring 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 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.

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, the petition is allowed and FIR No. 56 dated 27.05.2012 under Sections 323, 452, 148, 149, 427 and 506 of the Indian Penal Code, 1860 registered at Police Station Kartarpur, District Jalandhar as well as the impugned order dated 10.01.2017 (Annexure P-3) passed by the Judicial Magistrate 1st Class, Jalandhar whereby the petitioner has been declared as a proclaimed offender and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner.

(VIKAS BAHL)
JUDGE

14.12.2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No