

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

252-2

CRM-M-46670-2019
Decided on : 08.07.2022

Gurwinder Singh and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sunny Singla, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Himanshu Puri, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of DDR No. 28 dated 24.05.2019 under Sections 323, 324 and 34 of the Indian Penal Code, 1860 in FIR No. 39 dated 22.05.2019 under Sections 323, 324, 326, 452, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Fattu Dzinga, District Kapurthala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

On 06.12.2019, a coordinate Bench of this Court was pleased to pass the following order:-

“The present petition has been filed for quashing of DDR No. 28 dated 24.5.2019 as cross version of FIR No. 39 dated 22.5.2019, registered

under Sections 323, 324, 452, 148 and 149 IPC at Police Station Fattu DHINGA, District Kapurthala, and all subsequent proceedings on the basis of compromise.

Notice of motion.

On asking of the Court, Mr. Harbir Sandhu, AAG, Punjab accepts notice on behalf of the State. Mr. Himanshu Puri, Advocate accepts notice on behalf of the complainant- respondent No.2.

Learned counsel for the petitioners is directed to supply copies of the paper book to the opposite counsel during course of the day.

Let the parties now appear before the trial Court/Illaq Magistrate on 22.1.2020 or any other date convenient to the Court for recording their statements with regard to compromise. The trial Court/Illaq Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The trial Court/Illaq Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties before the next date of hearing. It shall also be reported whether petitioners have been declared proclaimed offenders in this case or not.

Adjourned to 6.4.2020.

06.12.2019

Sd/-
(RAJBIR SEHRAWAT)
JUDGE”

In pursuance of the said order, a report has been submitted by the Sub Divisional Judicial Magistrate, Sultanpur Lodhi to the Superintendent Criminal for Deputy Registrar of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“In pursuance of aforesaid order, both the parties i.e. petitioners/accused namely Gurwinder Singh son of Gurdeep Singh. resident of VPO Fattudhinga, Police Station Fattudhinga. District Kapurthala and Sukhdev Singh @ Sabi son of Jagga Singh, resident of village Ucha, District Kapurthala, as well as respondent/complainant namely Rajwinder @ Raju son of Ravel Singh, resident of village Fattudhinga, Police Station Fattudhinga, District Kapurthala, appeared in the Court and got recorded their statements before the undersigned with regard to compromise of the matter in the above said criminal miscellaneous.

(i) As per statement of investigating officer, none of the petitioners/accused have been declared proclaimed offenders nor any proceedings for declaring them as proclaimed offenders is pending in the Court.

(ii) Both the parties have effected compromise which is genuine, voluntary and are not the result of any threat, pressure or coercion etc. in any manner.

Certified copies of statements of both the parties, recorded in this Court, are being sent herewith. The report is accordingly submitted before the Hon'ble

High Court for kind perusal, please.

Thanking you,”

A perusal of the above report would show that it has been stated that the statements of the complainant as well as the petitioners have been recorded in the case and they 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.

Learned counsel for the petitioners has submitted that none of the petitioners were declared proclaimed offender in the present case and are not involved in any other case.

Learned counsel for the State, as per instructions, has stated that the abovesaid facts are correct.

Learned counsel for respondent No. 2 has reiterated the factum of compromise and has prayed for quashing of FIR on the basis of the same.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court as well reply submitted on behalf of the State, this Court finds that the matter has been amicably settled between the petitioners and the complainant and the present FIR having been compromised deserves to be quashed. 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 DDR No. 28 dated 24.05.2019 under Sections 323, 324 and 34 of the Indian Penal Code, 1860 in FIR No. 39 dated 22.05.2019 under Sections 323, 324, 326, 452, 148 and 149 of the Indian Penal Code,1860 registered at Police Station Fattu DHINGA, District Kapurthala (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

July 8th, 2022

Mehak

(VIKAS BAHL)

JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No