

109

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-3791-2022 in/and
CRM-M-48353-2019 (O&M)
Date of decision : 15.02.2022

Sajan Singh @ Sajanpreet Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gursimran Singh Bhatia, Advocate for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Sanjeev Kumar Banga, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-3791-2022

This is an application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 16.09.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

Notice in the application.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears

and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Sanjeev Kumar Banga, Advocate appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main case is preponed from 16.09.2022 to today itself for final disposal.

In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 16.09.2022 to today and the same is taken on Board today itself for final disposal.

Main case

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.158 dated 13.07.2019 registered under Sections 452/323/325/427/148/149 of the Indian Penal Code, 1860 (Section 380 of IPC has been added later on) at Police Station Lopoke, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 14.11.2019, a Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioners refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.158 dated 13.07.2019, registered under Sections 452/323/325/427/148/149 of the Indian Penal Code, 1860 (later on offence under Section 380 IPC, 1860 has been added) at Police Station Lopoke, District Amritsar (Rural).

Notice of motion for 23.04.2020.

At the asking of the Court, Mr. Kirat Singh Sidhu,

DAG, Punjab, accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

At this stage, Mr. Devender Kumar, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate on or before 11.12.2019 for recording their statements with regard to compromise/settlement. 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 case 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.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.

14.11.2019

Sd/- (MANOJ BAJAJ)
JUDGE”

In pursuance of the abovesaid order, a report has been submitted by the Judicial Magistrate Ist Class, Ajnala. The relevant portion of the said report is reproduced hereinbelow:-

“In view of the aforesaid statements suffered by complainant and accused party, this court is of the view that both the parties have compromised the matter. The

compromise is genuine, voluntary and without any coercion and undue influence. In the present case, report under Section 173 Cr.P.C. has not been presented and total seven persons along with 15-16 unknown persons are named as accused in the FIR. No accused has been declared as proclaimed offender. As per statement suffered by ASI Narinder Singh, P.S. Lopoke, only complainant Sawinder Singh son of Gurmej Singh had allegedly received injuries at the hands of accused. There is only one MLR in the present case. Report is accordingly submitted, please.

Dated: 15.01.2020

Sd/- (Ram Pal, PCS), 15.01.2020

Judicial Magistrate Ist Class,

Ajnala, UID No.PB0501”

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused 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.

Learned counsel for the petitioners has submitted that the petitioners were not declared proclaimed offender in the present case and there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are 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 two parties. He has further submitted that respondent No.2 has no objection

in case the FIR and all the subsequent proceedings arising therefrom on the basis of compromise are quashed.

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 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”, reported as 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”, reported as 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.158 dated 13.07.2019 registered under Sections 452/323/325/427/148/149 of the Indian Penal Code, 1860 (Section 380 of IPC has been added later on) at Police Station Lopoke, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid order.

15.02.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No