

259

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

CRM-M-47903-2019

Date of decision : 22.07.2022

Surinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nagesh Paul, Advocate for
Mr. Sanjeeva K. Uppal, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.35 dated 31.08.2019 registered under Sections 379, 427, 148, 149 of the Indian Penal Code, 1860 at Police Station Nangal Bhoor, District Pathankot, Punjab (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 06.01.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Report dated 28.11.2019 is received from Chief Judicial Magistrate, Pathankot through learned District & Sessions Judge, Pathankot mentioning that the parties did not appear in the Court for getting their statements recorded regarding alleged compromise.

Learned counsel for the petitioners seeks extension of time for appearance of the parties before Chief Judicial Magistrate, Pathankot for recording of their statements.

Accordingly, the private parties are again directed to appear before the trial Court/Illaqa Magistrate on 14.01.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaqa Magistrate is directed to submit a report before the next date of hearing i.e. 03.02.2020 on the points mentioned in the order dated 08.11.2019.

06.01.2020

Sd/-(ARUN KUMAR TYAGI)

JUDGE ”

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

“Keeping in view all aspects and statements of complainant and accused, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their compromise is voluntary and without any threat or force.

Report of this Court as follows:

(i) As per record, six persons are arrayed as accused in FIR.

(ii) As per record, none of the persons involved in this case has declared proclaimed offender.

(iii) Compromise effected between the parties is genuine, voluntarily and without any coercion or undue influence.

(iv) Accused Varinder Singh has suffered statement and except this case, one criminal case is pending before the Court of Shri Hem Amrit Mahi, JMIC, Pathankot Accused Surinder Kumar also suffered statement that, except this case two other criminal complaints are pending against

him. One is pending in the Court of Shri Avtar Singh, learned ADJ, Pathankot and other is pending before the court of Shri Parinder Singh. learned ACJM, Pathankot. Accused Ranjit also stated that, except this case, one criminal case is pending before the Court of Shri Avtar Singh, learned ADJ, Pathankot and accused Aman Singh has also suffered statement that, except this case, one more criminal complaint is pending before the Hon'ble Punjab & Haryana High Court.

(v) As per record, challan in above-said FIR has not been presented in the Court till date.

It is further submitted that, as per statement of SI Gurmail Singh, P.S. Nangal Bhur recorded by this Court, there is only one complainant/ victim in present FIR.

Report along with copies of statements of complainant and accused are submitted, with regards, as directed.

Yours faithfully.

*Sd/- Kamaldeep Singh Dhaliwal,
Chief Judicial Magistrate, Pathankot”*

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 offenders in the present case.

Learned counsel for the State, as per instructions, has stated that the said

fact is correct.

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**”, 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.35 dated 31.08.2019 registered under Sections 379, 427, 148, 149 of the Indian Penal Code, 1860 at Police Station Nangal Bhoor, District Pathankot, Punjab (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

22.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No