

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(243)

CRM-M-47836-2019

Date of decision: - 14.03.2022

Nirmal Dass

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sumeet Puri, Advocate, for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

None for respondents No.2 to 4.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.177 dated 01.07.2019, registered under Sections 458, 323 and 506 IPC, at Police Station Sadar Dhuri, District Sangrur and all the subsequent proceedings arising therefrom on the basis of compromise.

On 08.11.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“ This petition has been filed seeking quashing of FIR No.177 dated 01.07.2019, registered for the alleged commission of offences punishable under Sections 458, 323, 506 IPC, at Police Station Sadar Dhuri, District Sangrur, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondent Nos.2 to 4. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion, returnable on 14.01.2020.

On the asking of the Court, Mr. B.S. Sewak, Additional

Advocate General, Punjab accepts notice on behalf of the respondent—State and Mr. I.P.S. Mann, Advocate, has filed power of attorney on behalf of respondent Nos.2 to 4.

Requisite number of copies of the petition be given to the counsel for the respondents during the course of the day.

In the meanwhile, the petitioner as also respondent Nos.2 to 4 would appear before the learned Area Magistrate upto 28.11.2019 to record their statements. That court would satisfy itself with regard to the authenticity of the compromise reached and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

The Area Magistrate would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

Learned State counsel would also determine as to whether any other criminal case, of like nature or otherwise, is pending against the petitioner.

(Amol Rattan Singh)

November 08, 2019

Judge"

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

“After going through the statements of both the parties and on asking, it is crystallized that the compromise has been arrived genuinely and is made voluntarily without any pressure or coercion.

Affected persons: Gurjant Singh son of Nihal Singh resident of village Kumbarhwal, tehsil Dhuri, district Sangrur is complainant in the present FIR. Bhupinder Kaur wife of Gurjant Singh and Mohanpreet Kaur daughter of Sukhwinder Singh both residents of village Kumbarhwal, tehsil Dhuri, district Sangrur are injured in the present FIR. Nirmal Dass son of Ram Chand resident of village

Kumbarhwal, tehsil Dhuri, district Sangrur has been arrayed as accused in the above mentioned FIR.

5. *As per the statement of Investigating Officer ASI Sukhpal Singh, 1936/Sgr, the present FIR was registered against Nirmal Dass son of Ram Chand resident of village Kumbarhwal, tehsil Dhuri, district Sangrur. The present FIR was registered on the statement of complainant/injured Gurjant Singh son of Nihal Singh resident of village Kumbarhwal, tehsil Dhuri, district Sangrur. There are two other accused namely Bhupinder Kaur wife of Gurjant Singh and Mohanpreet Kaur daughter of Sukhwinder Singh both residents of village Kumbarhwal, tehsil Dhuri, district Sangrur. Further as per the statement of IO, there is no any other accused and complainant/injured except the above said accused and complainant/injured. Further, no any criminal case is pending against the accused.*

Report is submitted as desired please.

Thanking you,

Yours faithfully,

*(Jagwinder Singh), PCS
Judicial Magistrate 1st Class
Dhuri. UID-PB0461"*

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. Perusal of the report would also show that it has been correctly noted in para No.4 of the report that there is one accused in the present FIR i.e. petitioner and there are three affected persons, who have been made as respondents No.2 to 4, but however, in para No.5, it has been wrongly noted that Bhupinder Kaur wife of Gurjant Singh and Mohanpreet Kaur daughter of Sukhwinder Singh are accused, whereas, they are victims. Even the statements of the complainant Gurjant

Singh and injured Bhupinder Kaur & Mohanpreet Kaur have been recorded, as per which, the compromise is genuine, voluntarily and without any pressure or coercion.

Learned counsel for the petitioner has submitted that there is no other FIR against the petitioner and he has not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this 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 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.177 dated 01.07.2019, registered under Sections 458, 323 and 506 IPC, at Police Station Sadar Dhuri, District Sangrur and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

March 14, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No