

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-56838-2022

Date of decision:22.12.2022

Jatinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rishabh Singla, Advocate for the petitioners.

Mr. Amit Shukla, AAG, Punjab.

Mr. Prince Goyal, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.273 dated 16.08.2009, registered under Sections 323, 324 and 34 IPC, at Police Station Maqsudan, District Jalandhar (Annexure P-1) along with all other consequential proceedings arising therefrom on the basis of compromise.

On 06.12.2022, 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.273 dated 16.08.2009, registered under Sections 323, 324 and 34 IPC, at Police Station Maqsudan, District Jalandhar and all other consequential proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 22.12.2022.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1 and Mr. Prince Goyal, Advocate, appears and accepts notice on

behalf of respondent No.2 and admits the factum of compromise.

Learned counsel for the petitioners and respondent No.2 have jointly submitted that in the present case, untraced report was submitted, but the Judicial Magistrate 1st Class, Jalandhar, vide order dated 17.10.2018 had stated that although, the untraced report has been submitted on account of the fact that the matter has been compromised, but the offence under Section 324 IPC is non-compoundable and accordingly, cognizance was taken under Sections 323, 324 and 34 IPC. It is further submitted that petitioner No.4 is residing abroad and he be permitted to appear before the Illaqa Magistrate/trial Court through Special Power of Attorney in the present case.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 days from today. Petitioner No.4 is permitted to appear before the concerned Court through Special Power of Attorney. The original Special Power of Attorney would be produced before the said Court at the time of recording of statements.

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.*

(VIKAS BAHL)
JUDGE”

06.12.2022

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

“Hence, in these circumstances, from above statements, it is humbly submitted that: -

- (i) As per the statement of the complainant/respondent, accused/petitioners and SI Manjit Singh, total four accused namely persons Jatinder Singh, Tejinder*

Kaur, Gagandeep Singh, Amandeep Singh have been arrayed as accused in FIR No.273 dated 16.08.2009 under Sections 323/324/34 IPC of PS Maqsudan, Jalandhar.

(ii)As per statement of accused/petitioners and SI Manjit Singh, the accused/petitioners namely, Jatinder Singh, Tejinder Kaur, Gagandeep Singh and Amandeep Singh have not been declared as proclaimed offenders.

(iii)As per the statements of complainant/respondent Charanjit Singh and petitioners/accused, namely, Jatinder Singh, Tejinder Kaur, Gagandeep Singh and Amandeep Singh, the compromise entered into is genuine, voluntary and without any coercion or undue influence. The identity of the respondent/complainant and petitioners/accused was also ensured and the copies of their Aadhar Cards are attached with their statements, respectively.

(iv)xxxx xxxx

(v)As per statements of accused/petitioners, complainant/respondent and SI Manjit Singh, there is no other victim/complainant in the present FIR No.273 dated 16.08.2009 under Sections 323/324/34 IPC of PS Maqsudan, Jalandhar.”

A perusal of the above said report would show that the petitioners and respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioners has further submitted that the petitioners were not declared proclaimed offenders in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

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.

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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.273 dated 16.08.2009, registered under Sections 323, 324 and 34 IPC, at Police Station Maqsudan, District Jalandhar (Annexure P-1) along with all other consequential proceedings arising therefrom on the basis of compromise, are ordered to be quashed qua the petitioners.

22.12.2022
Ishwar

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No