

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

264-2

CRM-M-54021-2019
Decided on : 26.05.2022

Jagmail Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Rajat Dogra, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Anmol, Advocate for
Mr. K. S. Brar, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of
rapat No. 37 dated 07.11.2019 under Sections 324, 323 and 34 of the
Indian Penal Code, 1860 registered at Police Station Sadar Abohar,
District Fazilka in FIR No. 119 dated 06.11.2019 under Sections 324,
323, 148 and 149 of the Indian Penal Code, 1860 registered at Police
Station Sadar Abohar, Distict Fazilka and all subsequent proceedings
arising on the basis of the compromise.

On 08.04.2022, this Court was pleased to pass the
following order:-

“CRM-12774-2022

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 28.09.2022 to an early date.

Learned counsel for the applicant-petitioners has submitted that although, statement of all the parties have been recorded but Harsangeet Singh-respondent No.3 and Rashpal Singh-petitioner No.2 could not get their statements recorded.

Notice in the application.

On advance notice, Mr. Sukhbeer Singh, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Sarbuland Mann, Advocate for Mr. K.S. Brar, Advocate appears on behalf of non-applicant/respondent Nos.2 and 3 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 28.09.2022 to today.

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 28.09.2022 to today and the same is taken on Board today itself

Main case

Learned counsel for the parties has submitted that although, statement of all the parties have been recorded but Harsangeet Singh respondent No.3 and Rashpal Singh-petitioner No.2 could not get their statements recorded and thus, pray that one last opportunity be granted to

the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 26.05.2022.

Both the parties are again directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month from today.

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.*

However, since the statement of Harsangeet Singh-respondent No.3 and Rashpal Singh-petitioner No.2 could not be recorded as stated above before the Illaqa Magistrate/trial Court in spite of giving direction, thus, the abovesaid opportunity is granted, subject to the payment of costs of Rs.5,000/- which shall be deposited by the petitioners in the Punjab and Haryana High Court Employees' Welfare Association Fund, within a period of 10 days from today.

It is made clear that if the said amount is not deposited within the stipulated period of time,

then the present petition would be deemed to have been dismissed. ”

Learned counsel for the petitioners has submitted that in pursuance of the above order, an amount of Rs.5,000/- has been deposited in the Punjab and Haryana High Court Employees' Welfare Association Fund vide receipt No. 961 dated 18.04.2022.

In pursuance of the above reproduced order, a report has been submitted by the Judicial Magistrate 1st Class, Abohar to the Deputy Registrar (Criminal) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“6. In compliance to the aforesaid order dated 08.04.2022 of Hon'ble Punjab and Haryana High Court, it is respectfully submitted that the point wise report of undersigned is as follows:

- i. It is submitted that the present DDR/Rapat was registered on the statement of Harsangeet Singh against four persons namely Jarnail Singh son of Gurdev Singh, Rashpal Singh son of Gurdev Singh, Jagnandan Singh son of Harbilas Singh and Harbilas Singh all residents of village Jodhpur, Tehsil Abohar, District Fazilka.*
- ii. It is further submitted that as per the statement of investigating officer, none of the accused has been declared proclaimed offender in the present FIR.*
- iii. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between them is*

genuine, which is not the result of any pressure and coercion or undue influence.

iv. It is further submitted that no other FIR except the present FIR has been registered against above named accused persons at P.S. Sadar, Abohar.

v. It is further submitted that as per statement of investigating officer, there is no other victim/complainant in the present FIR, except the complainant namely Harsangeet Singh son of Boota Singh.

As such, report is submitted accordingly alongwith the statements for the kind perusal of your goodself.”

It is also relevant to note that although, as per the above report, it has been mentioned that there is no other victim/complainant except Harsangeet Singh S/o Boota Singh whereas a perusal of the petition would show that Boota Singh is also a victim and further perusal of the statements annexed herewith with the report would show that the statement of the said Boota Singh as well as the complainant Harsangeet Singh have been recorded by the Judicial Magistrate 1st Class, Abohar in support of the compromise. The statements of the petitioners have also 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 and the injured person have 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 Nos. 2 and 3 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 rapat No. 37 dated 07.11.2019 under Sections 324, 323 and 34 of the Indian Penal Code, 1860 registered at Police Station Sadar Abohar, District Fazilka in FIR No. 119 dated 06.11.2019 under Sections 324, 323, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sadar Abohar, Distict Fazilka and all subsequent proceedings arising on the basis of the compromise, are ordered to be quashed, qua the petitioners.

May 26th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No