

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(257)

CRM-M-49040-2018

Date of decision: - 04.07.2022

Balwinder Singh @ Lucky and others

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rishu Mahajan, Advocate, for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Vikas Bishnoi, Advocate, for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.147 dated 07.04.2018, under Sections 341, 323, 427, 379, 506, 148, 149 and 403 of the Indian Penal Code, 1860, registered at Police Station Civil Lines, District Amritsar (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise.

On 25.03.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“It has been pointed out by both the sides that the matter has been compromised.

In view of the above, let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 24.04.2019 to record their statements with reference to the compromise, if any, entered into between them.

Petitioners will file their respective affidavits that there is no other criminal case pending against them and also give the details of any other FIR(s), which have already been quashed on the basis of compromise.

Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any, and submit a report alongwith the statements to this Court before the next date of hearing containing the following information:-

- (i) Whether the statements of the parties are bonafide and are not result of any pressure or coercion etc. in any manner?*
- (ii) Whether the compromise effected between the parties is genuine and valid?*
- (iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).*
- (iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?*
- (v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*
- (vi) Whether any of the petitioner(s) is/are previous convict or not?*

List before this Court on 14.05.2019 for further consideration.

Meanwhile, learned State counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.

March 25, 2019

**(MAHABIR SINGH SINDHU)
JUDGE”**

In pursuance of the said order, the report has been submitted by the Chief Judicial Magistrate, Amritsar to the Assistant Registrar (Criminal) of this Court. The relevant part of the report is reproduced hereinbelow:-

“Hence, report on the information sought by Hon'ble High Court is submitted as under :-

(i) *Whether the statements of the parties are bonafide and are not result of any pressure or coercion etc. in any manner ?*

Yes. The statements of parties are bonafide and are not result of any pressure or coercion etc. in any manner.

(ii) *Whether the compromise effected between the parties is genuine and valid?*

Yes. The compromise between the parties is genuine and valid.

(iii) *Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).*

Yes, All the accused, complainant and injured are party to the compromise.

(iv) *Whether any other case is pending against either of the parties or not, if yes, the details thereof?*

No other case is pending against either of the parties.

(v) *Whether any of the persons involved in this case/dispute has been declared as proclaimed offender ?*

No accused has been declared as proclaimed offender.

(vi) *Whether any of the petitioner(s) is/are previous convict or not ?*

No. As per statement of Investigating officer, none of the petitioner is previous convict.

The report as well as original statements of the parties is submitted for kind perusal of the Hon'ble High Court.

Submitted please.

Yours faithfully,

*(Baljinder Singh),
Chief Judicial Magistrate,
Amritsar.
UID No.PB0255."*

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. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR against the petitioners and they have not been declared proclaimed offender. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.2 and 3 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 parties.

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 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. XXX---XXX”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.147 dated 07.04.2018, under Sections 341, 323, 427, 379, 506, 148, 149 and 403 of the Indian Penal Code, 1860, registered at Police Station Civil Lines, District Amritsar (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

July 04, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No