

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.128-256

CRM-36161-2022 in/and

CRM-M-53986-2019

Date of Decision: September 29, 2022

Navjot Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sharad Mehra, Advocate for the petitioners.

Mr. P.S. Pandher, AAG, Punjab.

Mr. Sourav Kanojia, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

CRM-36161-2022

Learned counsel for the petitioners makes a reference to para 7 of the order dated 23.07.2018, Annexure P-2 passed by the learned Addl. Sessions Judge, Tarn Taran in the bail application filed by co-accused, who is also the petitioner in the present case, where it has been mentioned that on an inquiry conducted in the case, offence punishable under Section 307 IPC has been deleted and the case has been converted into Section 336 IPC. The aforesaid para 7 reads thus:-

“7. Perusal of the file reveals that present case has been registered u/s 307, 336, 34 IPC and 25, 27, 54, 59 Arms Act. Accused are in custody since 30.05.2018. Nothing is recovered from the possession of the accused. The SSP, Tarn Taran has conducted an enquiry in the present case and offence 307 IPC has been deleted in the said enquiry and case has been converted into 336 IPC which is bailable one. As such, keeping in view of the facts and circumstances of the present case and the fact that accused are in custody since 30.05.2018 and the fact that no

injury caused to the applicant and conclusion of trial will take some time no useful purpose shall be served by keeping the accused/applicants behind the bar. Accordingly, in the opinion of this Court, the applicants-accused deserve to be admitted on bail. Consequently, the bail application in hand stands allowed. The applicants are ordered to be released on bail on their furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount each of the applicants to the satisfaction of Illaqa/Duty Magistrate of PS Bhikiwind with the following conditions:-----”

Learned counsel for the petitioners submits that accordingly the present application has been filed.

Notice of the application be issued to the counsel opposite.

Mr. P.S. Pandher, AAG, Punjab and Mr. Sourav Kanojia, Advocate accept notice on behalf of respondent No.1 and 2 respectively and have no objection in the case the application is allowed.

In view of the aforesaid, the application is allowed as prayed for, subject to all just exception.

The amended petition is taken on record.

Main Case

Present petition has been filed for quashing of FIR No.74, dated 29.05.2018, under Sections 336 and 34 IPC and Sections 25 and 27 of the Arms Act, 1959 of IPC, registered at Police Station Bhikhiwind, District Tarn Taran and all other consequential proceedings arising therefrom on the basis of the compromise dated 02.12.2019 (Annexure P-4).

Notice of motion was issued on 17.12.2019 and both the parties were directed to appear before the trial Court/Illaqa Magistrate for recording their statements in the context of genuineness of the

compromise. The trial Court was also directed to submit its report accordingly.

Pursuant to the aforesaid order, report dated 19.02.2020 was received from the learned Judicial Magistrate 1st Class, Patti, to the effect that the parties did not appear to get their statements recorded. Thereafter, this Court vide order dated 24.02.2020 granted one more opportunity to the parties to appear before the trial Court/Illaqa Magistrate to get their statements recorded. Pursuant thereto, report dated 16.03.2020 of the learned Judicial Magistrate 1st Class, Patti has been received. A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case the FIR in question is quashed and the compromise effected between them is genuine, without any undue influence and coercion. It is also stated in the report that there are four accused in the FIR and none of them has been declared as proclaimed offender and none of them is involved in any other case and the challan has yet not been presented.

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner(s) and the complainant(s). Since the matter has been settled and the parties have decided to live in peace, this Court is of the view 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 view 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 the above, the petition is allowed and FIR No.74,

dated 29.05.2018, under Sections 336 and 34 IPC and Sections 25 and 27 of the Arms Act, 1959 of IPC, registered at Police Station Bhikhiwind, District Tarn Taran and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

September 29, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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