

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-54538-2019

Date of decision:07.09.2022

Kulwinder Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Jasneet Mehra, Advocate for
Ms. Bandana K. Dogra, Advocate for the petitioners.

Mr. Iqbal S. Mann, DAG, Punjab.

Ms. Sukhveer Kaur, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.21 dated 15.02.2019, registered under Sections 420 and 370 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Subhanpur, District Kapurthala and all the subsequent proceedings arising therefrom on the basis of compromise.

On 12.05.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.21 dated 15.02.2019, registered under Sections 420 and 370 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Subhanpur, District Kapurthala and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has pointed out that in the present case, there are five accused, out of which, four

accused have filed the present petition and one accused had earlier filed a petition bearing CRM-M-17184-2019 and the same was disposed of on 27.05.2019.

Adjourned to 26.07.2022.

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

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”*

May 12, 2022

Thereafter, on 26.07.2022, this Court was pleased to pass the following order: -

“Learned counsel for the parties has submitted that one last opportunity be granted to the parties to get their statements recorded before the Illaqa Magistrate/trial Court.

Adjourned to 07.09.2022.

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

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.*

26.07.2022

*(VIKAS BAHL)
JUDGE”*

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

“....Accordingly, my point wise report is submitted as under: -

- 1. As per statement of Investigating Officer, FIR in this case has been registered against four accused namely Sodhi, Sandeep Singh and Jasvir Kaur and Kulwinder Singh. However, accused Kulwinder Singh has died on 20.04.2022 and his death certificate has been placed on record as Mark-A.*
- 2. As per statement of Investigating Officer, none of the aforesaid accused have been declared as proclaimed offenders.*
- 3. It is clear from the statements of the complainant Sukhdev and accused Sodhi, Sandeep Singh and Jasvir Kaur as well as after their examination in the Court, they they have entered into compromise and solved their differences, without any undue influence, coercion and threat. The original compromise was produced and place on record as Ex.C1. As such, in my opinion, the parties have entered into compromise voluntarily and without any coercion and undue influence.*
- 4. As per the statements of the accused and Investigating Officer, no other proceedings are pending against accused Sodhi, Sandeep Singh and Jasvir Kaur.*
- 5. Statements of complainant Sukhdev Singh as well as accused Sodhi, Sandeep Singh and Jasvir Kaur have been recorded by the undersigned and as per statement of the Investigating Officer there is only one complainant/victim.*

The report is accordingly submitted please.

Thanking you,

Yours faithfully,

*(Supreet Kaur)
Judicial Magistrate 1st Class,
Kapurthala”*

A perusal of the above said report would show that the petitioners and complainant/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

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.21 dated 15.02.2019, registered under Sections 420 and 370 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, at Police Station Subhanpur, District Kapurthala and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

07.09.2022

Ishwar

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No