

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.237

CRM-M-54399-2019

Date of Decision: August 18, 2022

Bahadur Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Bikramjeet Singh Jatana, Advocate for the petitioners.

Mr. R.S. Khaira, AAG, Punjab.

Mr. Vikrampreet Singh, Advocate
for respondent Nos.2 and 3.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.35, dated 30.04.2008, under Sections 308, 452, 435, 148 and 149 of the Indian Penal Code, registered at Police Station Bareta, District Mansa and all other consequential proceedings arising therefrom on the basis of the compromise deed.

On 26.02.2020, this Court had passed the following order:-

“CRM-7437-2020

The applicants/petitioners have filed this application under Section 482 of the Code of Criminal Procedure, 1973 for impleading Hardayal Kaur wife of Gurnam Singh resident of Village Kulrian, Tehsil Budhlada, District Mansa as respondent No.4.

Notice of the application.

Mr. Arun Kaundal, DAG, Punjab accepts notice on behalf of

respondent No.1-State and Mr. Vikrampreet Singh, Advocate accepts notice on behalf of respondents No.2 and 3 and submit that they have no objection if the application is allowed.

In view of the facts and circumstances of the case and no objection, the application is allowed and Hardayal Kaur wife of Gurnam Singh is impleaded as respondent No.4 to the petition.

Amended memo of parties is taken on record.

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Notice to newly added respondent No.4 be issued.

At this stage, Mr. Vikrampreet Singh, Advocate accepts notice on behalf of respondent No.4 and undertakes to file power of attorney on behalf of respondent No.4.

As per report dated 13.01.2020 received from Judicial Magistrate 1st Class, Budhlada no one has appeared before him for getting his/her statement recorded with regard to the compromise.

Learned counsel for the private parties pray for time for getting the statements of the parties recorded.

The private parties including respondent No.4 are again directed to appear before the trial Court/Illaq Magistrate on 03.03.2020 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before the next date of hearing i.e. 28.03.2020 containing the information on the points mentioned in the order dated 19.12.2019.”

Pursuant to the aforesaid order, report dated 18.03.2020 has been received from Judicial Magistrate Ist Class, Budhlada. The relevant part of the said report is as under:-

“By considering the statements of parties present in the

court, it makes out that the parties of the present case have compromised the matter with their free will and without any pressure and influence, so this compromise between the parties appears to be genuine, voluntarily and without any coercion or undue influence.

Status report from concerned police station has also been sought which has been received to the effect that the present FIR has been registered against the accused Bahadur Singh, Major Singh, Avtar Singh, Amritpal Singh and Tek Singh mentioned above along with 20/25 unknown persons and none of the accused has been arrested so far and no one is proclaimed offender in the present case and the case is still under investigation. Therefore, as per the report received from concerned police station, the present FIR has been registered against the accused Bahadur Singh, Major Singh, Avtar Singh, Amritpal Singh and Tek Singh mentioned above along with 20/25 unknown persons and non one is proclaimed offender in the present case and the case is still under investigation.

Statement of Investigating officer namely ASI Gurcharan Singh has been recorded wherein he has stated that there are total three complainants/victims in the present case namely (i) Bhola Singh s/o Maghi Singh (ii) Bablu Insa s/o Chaina Ram (iii) Hardial Kaur w/o late Gurnam Singh all residents of Village Kulrian. Therefore as per the statement of ASI Gurcharan Singh, all the complainants/victims have been impleaded as party in the quashing petition pending before the Hon'ble Punjab and Haryana High Court.

Hence, necessary report is hereby submitted for kind perusal.

Thanking you.

*Yours faithfully,
Jagjit Singh, PCS
Judicial Magistrate 1st Class,*

Budhlada
UID No.PB0422”

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. It is stated in the report that the compromise effected between the parties is genuine and has been arrived at between them without any pressure or coercion. However, it has also been mentioned in the report that none of the accused has been declared proclaimed offender and Amritpal Singh was found innocent during the investigation whereas Tek Singh had died.

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 parties. 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 aforesaid petition is allowed and FIR No.35, dated 30.04.2008, under Sections 308, 452, 435, 148 and 149 of the Indian Penal Code, registered at Police Station Bareta, District Mansa and all other consequential proceedings arising therefrom, is quashed qua the petitioners.

August 18, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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