

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(292)

CRM-M-54605-2019

Date of decision: - 02.05.2022

Younis Masih @ Junas Masih

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mohd. Yousaf, Advocate, for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Pradeep Singh, Advocate
for Mr. Supneet Singh, Advocate,
for respondent Nos.2 and 3.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.75 dated 21.06.2005 (Annexure P-1), registered under Sections 323, 324 and 34 of the Indian Penal Code, 1860, at Police Station Adampur District Jalandhar as well as order dated 25.04.2014 (Annexure P-2), passed by the Court of Judicial Magistrate 1st Class, Jalandhar declaring the petitioner as proclaimed offender and all the subsequent proceedings arising therefrom on the basis of compromise.

On 20.12.2019, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“This is a petition for quashing of FIR No.75 dated 21.06.2005, under Section 323, 324, 34 IPC registered at Police Station Adampur District Jalandhar (Annexure P-1) qua the petitioner only and order

dated 25.04.2014 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Jalandhar declaring the petitioner as proclaimed offender along with all consequential proceedings arising therefrom on the basis of compromise dated 14.12.2019 (Annexure-3) effected between the petitioner/accused and the complainant/respondent Nos.2 and 3.

Notice of motion.

At this stage, Mr. Supneet Singh, Advocate, has put in appearance on behalf of respondent Nos.2 and 3 and has filed his power of attorney, which is taken on record. He has admitted the factum of compromise effected between the parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 17.01.2020 for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1 The number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntarily and out of free will of the parties.*

Report of the Illaqa Magistrate/trial Court be awaited for 26.03.2020.

20.12.2019

**[HARNARESH SINGH GILL]
JUDGE”**

In pursuance of the said order, the report has been submitted by the Judicial Magistrate 1st Class, Jalandhar to the Registrar General of this Court. The relevant part of the report is reproduced hereinbelow:-

“Sir,

I have the honour to submit that vide order dated 20.12.2019 passed by HMJ HARNARESH SINGH GILL, Judge, Punjab and Haryana High Court in CRM-M-54605 of 2019, the parties were

directed to get their respective statements recorded before the trial court. So, on 18.01.2020 the statements of Complainant (Davinder Kumar) and Accused (Yunus Masih @ Junas Masih). Statement of complainant Baljit has been recorded on 15.02.2020.

As per the statements of the parties, the present FIR no.75 dated 21.06.2005 under Section 324, 323. 34 IPC PS Adampur. District Jalandhar was got registered by complainants Davinder Kumar and Baljit against Ravi Pal So Raj Kumar and Younis Masih S/o Kehara Ram R/o Village Madar. PS Adampur. Jalandhar. Accused Ravi Pal faced trial and was acquitted vide order dated 07.09.2009 by Court of Ms. Manila Chugh, the then JMJC, Jalandhar. As per the statements of the parties, there are only two accused namely Ravi Pat and Younis Masih arrayed in the present FIR and accused Younis Masih was declared PO and did not face trial and no other accused was declared PO: As per the statements, there are only 2 complainants injured persons in the present case namely Davinder Kumar and Yunus Masih @ Junus Masih. As per the statements of the parties, with the intervention of the respectables, parties have compromised the matter and the said compromise is with the free will of the parties and without any pressure or coercion from any corner. As per the statements of the parties, the said compromise Ex.C1 is genuine and valid and executed with the free consent of the parties. The stage of trial proceedings is that accused was declared as PO by the Court of Sh. Arun Gupta the then Jd JMJC Jalandhar vide order dated 24.12.2014 and the file was consigned to the record room. Self attested copy of Adhar Card of parties i.e. complainant and accused are Ex.C2 to Ex.C4 as the proof of their identities.

Copies of statements of the parties are enclosed herewith.

Thanking you,

Yours faithfully

*Rattan Deep Singh, PCS,
Judicial Magistrate In Class,
Jalandhar”*

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, without any coercion or undue influence.

Learned counsel for respondent Nos.2 and 3 and 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 petitioner and the complainant/injured. 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.75 dated 21.06.2005 (Annexure P-1), registered under Sections 323, 324 and 34 of the Indian Penal Code, 1860, at Police Station Adampur District Jalandhar and all the subsequent proceedings emanating therefrom including the order dated 25.04.2014 (Anenxure P-2), passed by the Court of Judicial Magistrate 1st Class, Jalandhar, declaring the petitioner as proclaimed offender, are ordered to be quashed/set aside, qua the petitioner.

May 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No