

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.237-a

CRM-M-54637-2019

Date of Decision: August 18, 2022

Gulzar Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Vikrampreet Singh, Advocate for the petitioners.

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

Mr. Bikramjit Singh Jatana, Advocate for
respondent Nos.2 to 20.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of DDR No.25, dated 30.04.2008, under Sections 295-A, 148 and 149 of the Indian Penal Code, registered at Police Station Bareta, District Mansa, in FIR No.35, dated 30.04.2008, under Sections 308, 452, 435, 148 and 149 of the Indian Penal Code 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:-

“As per report dated 16.01.2020 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 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 20.12.2019”

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 DDR/case has been registered against the accused Gulzar Singh, Nachattar Singh, Gurmail Singh, Teja Singh, Pala Singh, Gurlal Singh, Krishan Singh, Gurpal Singh, Gurjant Singh, Gurnam Singh, Major Singh, Gurjeet Singh, Bhagwan Singh, Lila Singh, Buta Singh, Avtar Singh, Jasvir Singh, Kaka Singh, Jagtar Singh, Jarnail Singh, Pooran Singh, Bharthu Ram, Ramphal Singh, Pritam Singh, Sita Singh and Gurdev Singh mentioned above along with 50/60 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 DDR/case has been registered against accused Gulzar Singh, Nachattar Singh, Gurmail Singh, Gurpal Singh, Gurjant Singh, Gurnam Singh, Major Singh, Gurjeeet Singh, Bhagwan Singh, Lila Singh, Buta Singh, Avtar Singh, Jasvir Singh, Kaka Singh, Jagtar Singh, Jarnail Singh, Pooran Singh, Bharthu Ram, Ramphal Singh, Pritam Singh,

Sita Singh and Gurdev Singh mentioned above along with 50/60 unknown persons and no 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 24 complainants/victim in the present case namely (i) Major Singh s/o Mukan Singh (ii) Jugraj Singh s/o Gurbaksh Singh (iii) Amrik Singh s/o Gurddial Singh (iv) Hans Raj Singh s/o Hardev Singh (v) Kala Singh s/o Sandhu Singh (vi) Chet Singh s/o Kaka Singh (vii) Tek Singh s/o Sukhdev Singh (since deceased) (viii) Mangu Singh s/o Inder Singh (ix) Jugraj Singh s/o Telu Singh (x) Major Singh s/o Samir Singh (xi) Sukhdev Singh s/o Birbal Singh (xii) Satgur Singh s/o Samir Singh (xi) Sukhdev Singh s/o Birbal Singh (xii) Satgur Singh s/o Hardev Singh (xiii) Kal Singh s/o Atma Singh (xiv) Ram Singh s/o Hardev Singh (xiii) Kala Singh s/p Atam Singh (xiv) Ram Singh s/o Jugraj Singh (xv) Balwinder Singh s/o Nek Singh (xvi) Kaka Singh s/o Dharmu Singh (xvii) Ajaib Singh s/o Bhura Singh (xviii) Bhura Singh s/o Baggu Singh (xix) Mukhtiar Singh s/o Gurdev Singh (xx) Jeet Singh s/o Ram Kishan (xxi) Bhola Singh s/o Ram Kishan (xxii) Beant Singh s/o Sarban Singh (xxiii) Hardial Singh Jathedar (xiv) Joginder singh s/o Kaur singh all residents of Village Kulrian Tehsil Budhlada. Therefore, from the statement of ASI Gurcharan Singh, it appears that there are other complainants/victims namely (i) Joginder Singh s/o Kaur Singh (ii) Jugraj Singh s/o Telu Singh (iii) Hardial Singh @ Babu Singh Jathedar (iv) Bhura Singh s/o Baggu Singh all residents of Village Kulrian, Tehsil Budhlada who are not 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 accused Gurdev Singh, Pritam Singh, Sita Singh and Chahru 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 petition is allowed and DDR No.25, dated 30.04.2008, under Sections 295-A, 148 and 149 of the Indian Penal Code, registered at Police Station Bareta, District Mansa, in FIR No.35, dated 30.04.2008, under Sections 308, 452, 435, 148 and 149

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