

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-246-2020

Date of decision:22.09.2022

Sanjay Kochhar and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nitin Meel, Advocate for
Ms. Srishti Sidhana, Advocate for the petitioners.

Mr. Digvijay Nagpal, AAG, Punjab.

Mr. Ashish Pundir, Advocate for respondent No.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.70 dated 15.05.2013 under Sections 406,420,120-B IPC, registered at Police Station City Kharar, District SAS Nagar (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

On 08.01.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“Prayer in this petition is for quashing of FIR No.70 dated 15.05.2013 registered under Sections 406, 420, 120-B IPC at Police Station City Kharar, District SAS Nagar (Annexure P-1) as well as all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

Notice of motion for 14.02.2020.

In the meanwhile, parties are directed to appear before the trial Court/Illaq Magistrate within a period 15 days from today and the trial Court/Illaq Magistrate, after recording their statements, shall submit its report with regard to genuineness of the compromise viz-a-viz. number of accused

persons involved in this case and whether any of the accused has been declared proclaimed offender or not, on or before the adjourned date.

08.01.2020

*(Raj Mohan Singh)
Judge”*

In pursuance to the said order, a report has been submitted by Sub Divisional Judicial Magistrate, Kharar. The relevant portion of the said report is reproduced hereinbelow:-

“HC Chamkaur Singh got recorded his statement to the effect that the FIR No.70 dated 15.05.2013, under Sections 406, 420, 120-B IPC, P.S. City Kharar, District SAS Nagar, got registered by complainant Kulbhushan Raheja against accused namely Sanjay Kochhar, Ravi Kant Dhir and Surinder Kumar Saluja and none of the accused persons have been declared proclaimed person by this court nor any PO proceedings are pending against them. This Court is satisfied that aforesaid statements made by complainant and accused are voluntarily and without any threat or any undue influence. Report is hereby sent to your good-self office along with copies of statements of complainant and accused as required in compliance to the order of Hon'ble High Court.

Submitted, please.

Yours faithfully,

*(Shilpi Gupta),
Sub Divisional Judicial Magistrate,
Kharar/UID No.PB0315”*

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 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.70 dated 15.05.2013 under Sections 406,420,120-B IPC, registered at Police Station City Kharar, District SAS Nagar (Annexure P-1) along with all consequential proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

22.09.2022
Ishwar

(VIKAS BAHL)
JUDGE

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