

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

276

CRM-M-36992-2021 (O&M)

Date of Decision: 17.10.2023

Jagdish @ Jyoti and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Ms. Puja Chopra, Advocate, for the petitioners.

Mr. Amish Sharma, AAG, Punjab.

Mr. Tapish Kumar Gupta, Advocate, for respondent Nos.2 to 4.

VIKAS SURI, J.

[1] This is a petition filed under Section 482 Cr.P.C. for quashing of case FIR No.37 dated 17.03.2021 registered under Sections 458, 379B, 324, 323, 506, 148 and 149 IPC at Police Station Division No.4, District Patiala (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise deed dated 22.05.2021 (Annexure P-3).

[2] On 09.09.2021, the following order was passed:-

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for **8.2.2022**.

At this stage, Mr. Tapish Kumar Gupta, Advocate has put in appearance on behalf of

respondents No.2 to 4 and accepts notice on behalf of respondents No.2 to 4.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioners shall move an application before the trial Court/Illaq Magistrate concerned for recording statement of the petitioner as well as of the complainant qua the factum of compromise. As and when any such application is moved and put up before the trial Court/Illaq Magistrate, the trial Court/Illaq Magistrate shall consider the said application and do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaq Magistrate to either record the statement of the parties by physical process, if found convenient and safe subject to adherence of all the safeguards as prescribed by the health authorities or record the same by video conferencing.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaq Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court on or before the next date of hearing i.e. 8.2.2022.”

[3] Pursuant to order dated 09.09.2021, a report has been submitted by the Judicial Magistrate First Class, Patiala. The relevant portion of the said report dated 28.01.2022, reads as thus:-

“On 28.01.2022, the parties appeared before the trial Court for recording their statements. Jasbinder Singh complainant and Navdeep Kaur, Harmandeep Singh, Asmandeep Singh and Harjinder Kaur injured/Interested person appeared and suffered statement to the effect that FIR No. 37 dated 17.03.2021 Under Sections 458,379-B,324,323,506,148 and 149 Indian Penal Code, PS Lahori Gate, Patiala was got registered on the basis of statement of complainant against the accused namely Narinder Singh @ Veeshu, Rahul @ Harsh son of Sanjay, Jasbir Singh @Jussi son of Late Hari Singh and Gurdeep Singh @ Deep son of Paramjit Singh, Jagdish @ Jyoti son of Paramjit Singh and Sanjay son of Panna Lal and unknown persons. During investigation, it is transpired that no person with the name of Rohit is involved in the present case and no other person arrayed as accused in the present case. It is further stated that Navdeep Kaur, Harmandeep Singh, Asmandeep Singh and Harjinder Kaur are involved as interested/injured persons in present case. Except the above-cited person no other person is involved as accused or as complainant or injured/interested person in the present case. Now, They have compromised the matter with the above-cited accused persons and the terms of the said compromise also reduced into writing and same is placed on record copy of compromise as Ex. C1 (original seen and returned). They have no objection, the above said FIR may kindly be quashed against above said accused persons. As per their knowledge, no accused was

declared as proclaimed person/offender at any stage. They further stated that the present statement is given by them without any fear pressure or coercion and with their free consent. They also placed on record copy of his identity card i.e. Aadhar Card as Ex. PX, Ex. PY, Ex. PZ, Ex. PA, Ex. PB and copy of compromise as Ex. C1.

Accused Narinder Singh @ Veeshu, Rahul Harsh, Jasbir Singh @Ja Gurdeep Singh Deepa, Jagdish @ Jyoti and Sanjay also recorded their int statement regarding the compromise between the parties. They stated that the matter has been compromised with the complainant. They have also given their consent to quash the above-said FIR. They further stated that their statement is given by them without any fear pressure or coercion, however, with their free consent and will. They also placed on record copy of their identity card i.e. Aadhar Cards as Ex. PC to Ex. PH.

HC Sukhdev Singh No, 1838/PTA, investigating officer appeared and submitted statement that the FIR No. 37 dated 17.03.2021 Under Sections 458,379-1,324,323.506,145 and 149 Indian Penal Code, PS Lahori Gate, Patiala was got registered by complainant Jasbinder Singh against accused namely Narinder Singh Veshu, Rahul Harsh, Jasbir Singh Jassi Gurdeep Singh @ Deepa, Jagdish Jyoti and Sanjay and unknown persons. During investigation it is transpired that no person with the name of Rohit is involved in the present case and no other person arrayed as accused in the present case. It is further stated that Navdeep Kaur Harmandeep Singh, Asmandeep Singh, Harjinder Kaur are involved as interested and injured persons. Except the above said person no other person is involved as accused or as complainant or injured interested person in the present case. As per record accused were never declared as proclaimed person/proclaimed offender.

As per the directions of the Hon'ble High Court following information is provided:

1. In present case, Narinder Singh @ Veeshu, Rahul @ Harsh, Jasbir Singh @ Jassi, Gurdeep Singh @Deepa, Jagdish @ Jyoti and Sanjay are involved as accused and no other person arrayed as accused in the present case.
2. In present case, Navdeep Kaur Harmandeep Singh, Asmandeep Singh, Harjinder Kaur are involved as interested/injured persons and their statement regarding compromise also recorded.
3. As per the information, provided by the Investigating Officer, no accused declared as proclaimed person/proclaimed offender in present case.
4. In view of the statements suffered by the parties, this Court is of the considered view that the parties have voluntarily entered into a genuine compromise with their free will without any undue influence or pressure.”

[4] A perusal of the aforesaid report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded and both of them have vouched for the compromise and have endorsed no objection in case the FIR is quashed. It is further stated that the complainant has made statement voluntarily without any fear, coercion or pressure.

[5] Learned counsel for the petitioners has submitted that the parties vide compromise deed dated 22.05.2021 had effected compromise in two cross FIRs i.e. the above captioned FIR and FIR No.0049 dated 25.03.2021, under Sections 354, 323, 379 and 34 IPC, registered at Police Station Urban Estate, Patiala. The said FIR stands quashed vide judgment dated 18.01.2023 passed in CRM-M-36995-2021 titled *Jasbinder Singh @ Jaswinder Singh & Ors. vs. State of Punjab & Anr.* The operative of the

judgment reads as thus:-

“From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived between the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The alleged offences are of predominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed.

FIR No. 0049, dated 25.03.2021, under Sections 354, 323, 379 and 34 of IPC, registered at Police Station Urban Estate, Patiala, (Annexure P-1), and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).”

[6] The petitioners were never declared as proclaimed offender in the present case.

[7] Learned counsel for the State, as per instructions has admitted the said fact to be correct.

[8] Learned counsel for respondent Nos.2 to 4 has again reiterated that the matter has been settled and the said compromise is in their best interest and would help in bringing about peace and harmony between the two parties.

[9] Heard learned counsel for the parties and perused the file.

[10] After perusing the report submitted by the Judicial Magistrate First Class, Patiala, this Court finds that the matter has since been amicably

settled and the parties have decided to live in peace; this Court further finds that continuance of criminal proceedings against the present petitioners would be futile exercise and in order to secure the ends of justice, the FIR qua them deserves to be quashed.

[11] 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.

[12] Hon'ble the Apex Court in the case of ***Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303***, 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. Para 61 of the said judgment is reproduced hereinbelow:-

“61.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 what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend

on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court

shall be well within its jurisdiction to quash the criminal proceeding.

[13] In the light of the above discussion, the instant petition is allowed and resultantly, case FIR No.37 dated 17.03.2021 registered under Sections 458, 379B, 324, 323, 506, 148 and 149 IPC at Police Station Division No.4, District Patiala (Annexure P-1) and all consequential proceedings arising thereof, on the basis of compromise, are hereby quashed.

[14] All pending miscellaneous applications, if any, also stand disposed of.

October 17, 2023
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(VIKAS SURI)
JUDGE

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