

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57498 of 2022
Date of Decision:26.04.2023.

Surjit Singh and others

.....Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Pankaj Garg, Advocate
for the petitioners.

Mr. M.S. Nagra, A.A.G., Punjab.

Ms. Chahat Goyal, Advocate
for respondent No.2.

VIKRAM AGGARWAL, J. (ORAL)

1. The prayer in this petition is for quashing of FIR No.0289 dated 22.11.2020, registered under Sections 419, 420, 406, 120-B of the Indian Penal Code, 1860 (for short the 'IPC), at Police Station Sardulgarh, District Mansa (Annexure P-1) along with all subsequent proceedings arising therefrom on the basis of a compromise dated 08.03.2022 (Annexure P-2) arrived at between the petitioner and respondent no.2.

2. Vide order dated 09.12.2022, a Coordinate Bench of this Court had directed the parties to appear before the trial Court/Illaq Magistrate for getting their statements recorded with regard to the compromise dated 08.03.2022 (Annexure P-2).

3. The trial Court/Illaq Magistrate was to submit a report in this regard giving certain details as enumerated in the said order.

4. Pursuant to the order dated 09.12.2022 passed by this Court, the parties appeared before the learned Sub Divisional Judicial Magistrate, Sardulgarh and as per the report dated 20.01.2023 submitted to this Court, both the parties got their respective statements recorded in Court.

5. There were total eight accused named in the FIR and the present petition has been filed by five of them. The question which needs to be considered is as to whether a FIR can be quashed on the basis of a compromise having been entered into between the some of the accused with the complainant.

6. In the case of ***Lovely Salhotra and another Vs. State NCT of Delhi and another 2017(3) R.C.R. (Criminal) 85***, quashing of an FIR was sought from the High Court of Delhi. There also, FIR had been sought to be quashed in part. The prayer was rejected by the High Court of Delhi but in appeal, the Hon'ble Supreme Court set aside the decision of the Delhi High Court and quashed the FIR. While doing so, it was held by the Hon'ble Apex Court as under:-

“3. We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

6.1 Though the facts in the case under reference were different but the Hon'ble Supreme Court clearly held that the High Court was wrong in holding that an FIR cannot be quashed in part. This decision of the Hon'ble Supreme Court of India was relied upon by the Delhi High Court in another matter titled as

Poonam Khanna Vs. State and Ors. 2018(2) AD (Delhi) 372. In this case, one Poonam Khanna had invoked the powers of the Delhi High Court under Section 482 Cr.P.C. seeking quashing of FIR against her and requesting that her name be dropped from the list of the accused and proceedings be continued against other accused. The Delhi High Court, while relying upon the judgment of the Hon'ble Supreme Court in ***Lovely Salhotra's case*** (supra) quashed the FIR.

7. Reverting to the present case, a perusal of the report submitted by Sub Divisional Judicial Magistrate, Sardulgarh, would show that the parties have effected a genuine compromise without there being any pressure, coercion or undue influence. The powers under Section 482 Cr.P.C., can be exercised in such like situations in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be fully in consonance with the directions issued by the Court in ***"Kulwinder Singh & Ors. Vs. State of Punjab 2007(3) RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543"***.

8. It needs to be mentioned that in criminal cases, no straight jacket formula can ever be applied and each case has to be decided on its own facts. Keeping in view the nature of allegations, in the present case, this Court is of the considered opinion that no useful purpose would be served if the petitioners have to face the ordeal trial just because other accused have not entered into a compromise with the complainant.

9. In view of the aforementioned facts and circumstances and keeping in view the report of the learned Sub Divisional Judicial Magistrate, Sardulgarh accompanied by statements of both the parties, the FIR No.0289 dated 22.11.2020,

(for short the ‘IPC), at Police Station Sardulgarh, District Mansa (Annexure P-1) along with all consequential proceedings arising therefrom is hereby quashed *qua* the petitioners only.

The present petition stands allowed/disposed of accordingly.

April 26th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

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