

2024:PHHC:017057

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-29845-2019 (O&M)

Date of order: 06.02.2024

Neeru Bala & Others

.....Petitioner(s)

Vs.

State of Punjab & Others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTAPresent:- Mr. G.S. Rawat, Advocate
for the petitioners.

Mr. Kunwarbir Singh, AAG Punjab.

Mr. Sandeep Arora, Advocate
for respondents No.2 and 3.

Nidhi Gupta, J.

The prayer in this petition is for quashing of cross-case DDR No.40 dated 05.06.2009 under Sections 323, 354 and 506 IPC registered at Police Station Division No.7, Jalandhar (Annexure P2) in main case FIR No.70 dated 05.06.2019 (Annexure **P-1**) under Sections 323, 354 and 506 IPC registered at Police Station Division No.7, Jalandhar along with all consequential and subsequent proceedings arising out of the said cross-case on the basis of compromise between the parties.

Vide order dated 24.05.2022, Co-ordinate Bench of this Court had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 24.05.2022 with regard to the compromise arrived at between the parties.

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In terms of the order dated 24.05.2022 passed by Coordinate Bench of this Court parties have appeared before the Court of learned Chief Judicial Magistrate, Jalandhar and as per his report dated 08.09.2023 submitted to this Court, FIR was registered against 7 accused persons/present petitioners however, only 5 out of them have come forward to record their statements with regard to the compromise arrived at between the parties. It is further reported that accused/petitioner No.3 has "*not come present*" for recording of his statement; and accused/petitioner No.6 is stated to have expired. His death certificate has been placed on record.

Learned counsel for the parties are ad idem that petitioner No.3 is not traceable; and petitioner No.6 has expired on 15.08.2020, as is evident from his death certificate. Statements of remaining petitioners and complainants/respondents No.2 to 5 have been recorded with regard to the compromise arrived at between the parties.

Learned counsel for the petitioners has further submitted that petitioners No.1, 2, 4, 5 and 7 were not declared proclaimed offenders in the present case and the said petitioners are a party to the compromise.

Learned State Counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua petitioners No.1, 2, 4, 5 and 7.

Learned counsel for respondents No.2 to 5 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 Illaqa Magistrate, this Court finds that the matter has been amicably settled between petitioners No.1, 2, 4, 5 and 7 and the complainants/respondents No.2 to 5. learned counsel for the parties have stated above that petitioner No.3 is not traceable; and petitioner No.6 has expired on 15.08.2020, as is evident from his death certificate. 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. The Hon'ble Supreme Court in ***Jayrajsinh Digvijaysinh Rana Versus State of Gujarat and another, 2012(4) R.C.R. (Criminal) 589***, has held that partial quashing of the FIR is permissible on the basis of compromise.

Partial quashing or part quashing of FIR only qua the petitioner(s)/accused with whom the complainant(s) has/have compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner(s)/accused cannot be allowed to suffer based on a complaint filed by the respondent(s), when subsequently, all disputes have been settled between the parties. Reliance can be placed upon ***"Poonam Khanna vs. State & Ors" in Crl.M.C.No. 3690/2016 Dated 30.01.2018.***

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 proceedings 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 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; cross-case DDR No.40 dated 05.06.2009 under Sections 323, 354 and 506 IPC registered at Police Station Division No.7, Jalandhar (Annexure P2) in main case FIR No.70 dated 05.06.2019 (Annexure **P-1**) under Sections 323, 354 and 506 IPC registered at Police

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Station Division No.7, Jalandhar along with all consequential and subsequent proceedings arising out of the said cross-case on the basis of compromise between the parties, are ordered to be quashed qua the petitioners No.1, 2, 4, 5 and 7.

Petition stands disposed of.

Pending application(s) if any also stand(s) disposed of.

06.02.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No