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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.311

CRM-M-47215-2024 (O&M)

Date of decision:25.11.2024

Sukhdev Singh and another

... Petitioners

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Yashvir Balhara, Advocate for the petitioners.

Mr. R.S. Thind, DAG, Punjab.

Mr. Rahul Chadha, Advocate for
Mr. Aneesh Chopra, Advocate
for respondent No. 2

KIRTI SINGH, J. (Oral)

1. The present petition has been filed under Section 528 Bhartiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR No. 0126 dated 24.12.2017, under Sections 420/406 IPC and Section 13 of Punjab Travel Professional Regulation Act, 2014 registered at Police Station Mehtiana, District Hoshiarpur, Punjab and all subsequent proceedings arising therefrom, including order dated 17.09.2018 (Annexure P-3) vide which the petitioners have been declared as proclaimed persons passed by JMIC, Hoshiarpur on the basis of compromise.

2. Learned counsel for the petitioners firstly prayed for setting aside the order dated 17.09.2018 (Annexure P-3) whereby petitioners were declared as proclaimed persons and submits that in the present case, the FIR was registered against the petitioners on 24.12.2017. Learned counsel submits that the petitioners are resident of Italy and have been living there since 2013. The petitioners never came to India since then and they came to

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know about the pendency of case recently and they were never served in compliance of mandatory provisions of Sections 82 and 105 of Cr.P.C. as the learned trial Court made no efforts to serve the petitioners at their foreign address.

3. On the other hand, learned State counsel could not controvert the above stated factual submissions. Whereas, learned counsel appearing on behalf of respondent No.2 submits that he has no objection, the case the present petition is allowed as the parties have already entered into a compromise.

4. I have heard learned counsel for the parties and perused the record.

5. In the present case also, this Court has no hesitation to hold that the mandatory provisions of Section 82 and Section 105 Cr.P.C., have not been complied by the trial Court. It can be safely concluded that the trial Court had not complied with the provisions of Section 82(1) and Section 105 Cr.P.C., while declaring the petitioners as proclaimed persons.

6. From the above referred discussion, it is evident that the trial Court had wrongly declared the petitioners as proclaimed persons and the impugned order dated 17.09.2018 (Annexure P-3) is illegal and unsustainable and liable to be quashed. Accordingly, the prayer qua setting aside of order dated 17.09.2018 (Annexure P-3) is allowed subject to payment of Rs. 10,000/- to be deposited in Poor Patient Welfare Fund, PGIMER, Chandigarh Ordered accordingly.

7. A further prayer has been made in the present case with a prayer to quash the FIR No. 0126 dated 24.12.2017, under Sections 420/406

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IPC and Section 13 of Punjab Travel Professional Regulation Act, 2014 registered at Police Station Mehtiana, District Hoshiarpur, Punjab and all subsequent proceedings arising therefrom on the basis of compromise.

8. Heard learned counsel for the parties and also gone through the case file.

9. This Court vide order dated 23.09.2024, directed the parties to appear before the trial Court/Duty Magistrate for recording their statements with regard to the compromise.

10. Pursuant to the aforesaid order, report dated 10.10.2024 has been received from the Judicial Magistrate First Class, Hoshiarpur. 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 them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion.

11. The Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, 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.

12. Hon'ble the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, had observed that in

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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 reads thus:-

“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 xxx. ”

13. In view of the afore-referred judgments, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant, this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

14. Resultantly, the present petition is allowed and FIR No. 0126 dated 24.12.2017, under Sections 420/406 IPC and Section 13 of Punjab Travel Professional Regulation Act, 2014 registered at Police Station Mehtiana, District Hoshiarpur, Punjab and all other consequential proceed-

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to payment of Rs.10,000/- to be deposited in the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of one month.

(KIRTI SINGH)
JUDGE

25.11.2024
Anu

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No