

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34616-2022

Date of decision : 26.08.2022

Tarun and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Naveen Bawa, Advocate
for the petitioners.

Mr.M.S.Bajwa, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.191 dated 22.11.2019 registered under Sections 420, 467, 468, 471, 120-B IPC and Section 66 of the Information Technology Act, 2000 at Police Station Gharinda, District Amritsar Rural and all other consequential proceedings arising therefrom on the basis of compromise.

On 05.08.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.191 dated 22.11.2019 registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 and Section 66 of the Information Technology Act, 2000 at Police Station Gharinda, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise.

Notice of motion for 26.08.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Vishnu Dutt, Advocate appears on behalf of respondent No.2.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

05.08.2022”

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

“Statement of Investigating Officer ASI Sakattar Singh recorded wherein he deposed that as per our record the present FIR got registered on complaint of Sakattar Singh S/o Ajit Singh. Only one accused person namely Tarun was arrested and challan against him was presented in the court. Accused Shakuntla W/o Om Parkash has been formally arrested and challan against her is still pending. Remaining accused namely Rajinder, Rajveer S/o Govardhan, Akshay S/o Sanjay are yet to be arrested since investigation against the accused is still pending. Gulshan S/o Om parkash and Sachin S/o Ashok Kumar have also been arrayed as accused but their arrest is yet pending as they are evading the process of arrest. None of the accused persons is proclaimed offender. No FIR except present one is pending against accused Tarun S/o Om Parkash. There is only one victim namely Sakattar singh S/o Ajit Singh involved in the present FIR.

The compliance report along with statements of parties recorded by the undersigned are submitted herewith for onward

*transmission to the Hon'ble Punjab & Haryana High Court,
Chandigarh. Submitted please.*

Yours faithfully

*Harpreet Kaur,
Judicial Magistrate 1st Class
Amritsar.”*

A perusal of the above said report would show that the petitioners and respondent no.2 have appeared and have suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will. A perusal of the report would also show that in addition to the four petitioners, there are other accused also.

Learned counsel for the petitioners has submitted that he was under the impression that there are only four accused and thus, made statement on 05.08.2022 that all the persons concerned have been made party but has now prayed that the FIR qua the petitioners be quashed.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as ***Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another***, reported as ***2012 (12) SCC 401***, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2015 titled as ***Dalip Mandal and another Vs. State of U.T., Chandigarh and others*** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

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 and the FIR qua the present petitioners be quashed.

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.191 dated 22.11.2019 registered under Sections 420, 467, 468, 471, 120-B IPC and Section 66 of the Information Technology Act, 2000 at Police Station Gharinda, District Amritsar Rural and the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioners.

August 26, 2022.
Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No