

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31522-2022

Date of decision:31.08.2022

Kulwinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Abhishek Singla, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

Mr. Shubham Gupta, Advocate for respondents No.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.170 dated 25.09.2019 registered under Sections 66-D, 67-A of the Information Technology Act, 2000 and Section 419 of the Indian Penal Code, 1860 at Police Station Boha, District Mansa (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

On 22.07.2022, 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.170 dated 25.09.2019 registered under Sections 66D, 67A of the Information Technology Act, 2000 and Section 419 of the Indian Penal Code, 1860 at Police Station Boha, District Mansa (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise.

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

Notice of motion for 09.08.2022.

On asking of the Court, Mr. Sukhbeer Singh, AAG, Punjab. Appears and accepts notice on behalf of the

respondent-State and Mr. Shubham Gupta, Advocate appears on behalf of respondent Nos.2 and 3.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 10 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.*

22.07.2022 (VIKAS BAHL)
JUDGE”

In pursuance to the said order, a report has been submitted by Judicial Magistrate 1st Class, Budhlada. The relevant portion of the said report is reproduced hereinbelow:-

“i) As per statement of IO of the case and complainant, only one person arrayed as accused namely Kulwinder Singh in the present FIR.

ii) As per statement of IO and accused, accused has not been declared as proclaimed person.

iii) From the aforesaid statements of the effected parties, it apparently appears that the parties have voluntarily entered into the compromise between themselves and have settled the matter amicably. Compromise is genuine, without any kind of undue influence of pressure and out of free will of the parties.

iv) As per statement of IO, accused and report of concerned Ahlmad, one another case bearing FIR No.152 of 29.08.2019 U/S 66C IT Act, 2000 and Section 419 IPC, PS Boha, is pending against the accused.

v) Further, as per statement of IO, there are two victims/complainants in the present FIR.

xxxx xxxx

Thanking you,

Yours faithfully,

(Amarjeet Singh)
Judicial Magistrate 1st Class,

Budhlada, (PB0480) ”

A perusal of the above said report would show that the petitioner, respondents No.2 and 3 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioner has further submitted that the petitioner was not declared proclaimed offender in the present case.

Learned State counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioner.

Learned counsel for respondents No.2 and 3 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 trial Court, this Court finds that the matter has been amicably settled between the petitioner 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.170 dated 25.09.2019 registered under Sections 66-D, 67-A of the Information Technology Act, 2000 and Section 419 of the Indian Penal Code, 1860 at Police Station Boha, District Mansa (Annexure P-1) and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the petitioner.

August 31, 2022
Ishwar Singh

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No