

# **HARSIMRAN SINGH v. STATE OF PUNJAB , (2022-3)207 PLR 094**

PUNJAB AND HARYANA HIGH COURT

*Before: Mr. Justice Vikas Bahl.*

HARSIMRAN SINGH – Petitioner,

*Versus*

STATE OF PUNJAB and another – Respondents.

CRM-14035-2022 in/and CRM-M-6962-2020 (O&M)

**Criminal Procedure Code, S. 482 – Compromise – Partial compromise – Quashing – There are three accused in the present case – Compromise has been effected only with the present petitioner – FIR quashed qua the accused with whom the compromise has been effected.**

## **Cases referred to:**

1. 2012(12) SCC 401, *Jayrajsinh Digvijaysinh Rana v. State of Gujarat*
2. (2007-3)147 PLR 439 (FB), *Kulwinder Singh v. State of Punjab*
3. 2012 (4) RCR (Criminal) 543, *Gian Singh v. State of Punjab*

*Mr. Hitesh Verma*, for the petitioner. *Mr. Sarabjit S. Cheema*, AAG, Punjab. *Mr. Durga Dutt Sharma*, for respondent No.2.

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## **Vikas Bahl, J. (ORAL) – (22.04.2022) –**

### **CRM-14035-2022**

This is second application filed under Section 482 of Cr.P.C. for preponement of the date of hearing in the main case which is now stated to be listed for 23.09.2022 to an early date.

2. Learned counsel for the applicant-petitioners has submitted that the present matter has been compromised and the statements of the parties have already been recorded.

3. Notice in the application.

4. On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the non-applicant/State of Punjab and Mr. Durga Dutt Sharma, Advocate appears on behalf of non-applicant/respondent No.2 and have submitted that they have no objection in case the present application is allowed and the date of hearing in the main

case is preponed from 23.09.2022 to today itself for final disposal.

5. In view of the aforesaid facts and no objection from the opposite side, the present application is allowed and the date of hearing in the main case is preponed from 23.09.2022 to today and the same is taken on Board today itself for final disposal.

## **Main case**

**5. This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.25 dated 13.02.2015 registered under Sections 341, 307, 323, 148, 149 of the Indian Penal Code, 1860 at Police Station Mataur, District SAS Nagar, Mohali and all the subsequent proceedings arising therefrom on the basis of compromise.**

**6. On 12.11.2021, this Court had passed the following order:-**

*“CRM-37714-2021*

*Application is allowed as prayed for.*

*Annexure P-5 is taken on record, subject to just exceptions.*

*CRM-37717-2021*

*This is an application under Section 482 Cr.P.C. for pre-poning the date of hearing. It has been stated that the matter has been compromised, the statements have not yet been recorded and thus, prays that case be preponed and the parties be directed to get the statements recorded.*

*Counsel for respondent no.2-complainant has appeared and reiterated the fact that the matter has been compromised.*

*In view of the same, the present application is allowed and the matter is preponed from 17.02.2022 to today itself for hearing. The main petition is taken on Board today itself.*

*CRM-M-6962-2020*

*This is the petition under Section 482 Cr.P.C. for quashing of FIR no.25 dated 13.02.2015 registered under Sections 341, 307, 323, 148, 149 IPC at Police Station Mataur, District SAS Nagar, Mohali and all the subsequent proceedings arising out of the said FIR on the basis of compromise dated 28.02.2019 (Annexure P-4).*

*Notice of motion.*

*On advance notice, Mr.Karanbir Singh, AAG, Punjab, appears and accepts notice on behalf of respondent no.1. Mr.Durga Dutt Sharma, Advocate, appears on behalf of respondent no.2-complainant.*

*Learned counsel for the petitioner has submitted that in the present case offence under Section 307 IPC is not even remotely made out inasmuch as a perusal of MLR (Annexure P-3) would show that there are five injuries caused, out of which four are reddish abrasions and one is a swelling and all the injuries are on non-vital parts of the body and all the injuries are stated to be simple, and the weapon used is also blunt and it is thus, submitted that at best, the offence under Section 323 IPC is not made out.*

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

*Adjourned to 19.01.2022.*

*To be heard along with CRR-2986-2019. "*

*7. In pursuance of the abovesaid order, a report has been submitted by the District and Sessions Judge, SAS Nagar, Mohali. The relevant portion of the said report is reproduced hereinbelow:-*

*“On the basis of aforesaid statements, report sought by the Hon’ble High Court, is as under:*

1. *In the present FIR No. 25 dated 13.02.2015 under Sections 341, 307, 323, 148, 149 of IPC registered at P.S. Mattaur District SAS Nagar (Mohali) at the instance of complainant Dey Singh, three persons namely Karanjot Singh, Damanjeet Singh and Harsimran Singh were only nominated as accused in this case during the investigation.*
2. *No accused is proclaimed offender in this case.*
3. *From the statements of the parties, this Court is satisfied that the compromise effected between them, is genuine, voluntary and without any coercion or undue influence.*
4. *As per record of this case, coupled with the statements of accused and the investigating officer recorded in this case, accused Harsimran Singh and Damanjeet Singh are not involved in any other FIR. But one more FIR No.141 dated 07.12.2016 under Sections 323, 341, 506, 148, 149 IPC. PS.. Mattaur was registered against co-accused Karanjot Singh.*

*1As per statement of the investigating officer, there is only one complainant/victim in this case namely Dev Singh.*

*The report is submitted as desired, please.*

*Yours faithfully.*

*Sd/- (R.S. Rai)*

*District & Sessions Judge, SAS Nagar, Mohali.”*

8. A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

9. Learned counsel for the petitioner has submitted that the petitioner was not declared proclaimed offender in the present case and there are no other cases pending against the petitioner. Learned counsel for the State, as per instructions has stated that these facts are correct.

10. It has been pointed out that there are three accused persons in the present case, out of which, compromise has been effected only with the present petitioner and reliance has been placed upon the judgment passed by the Hon’ble Supreme Court in *Jayrajsinh Digvijaysinh Rana v. State of Gujarat*,<sup>1</sup> 2012(12) SCC 401 to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected. It is further submitted that CRR- 2986-2019 has been filed by the petitioner

against order framing the charges and the same will be withdrawn by him by moving an application in that case.

11. 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.

12. 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.

13. As per the Full Bench judgment of this Court in "*Kulwinder Singh v. State of Punjab*",<sup>2</sup> (2007-3)147 PLR 439 (FB), 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.

14. Hon'ble the Apex Court in the case of "*Gian Singh v. State of Punjab and another*",<sup>3</sup> 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. XXX—XXX"*

15. In view of what has been discussed hereinabove, the petition is allowed and FIR No.25 dated 13.02.2015 registered under Sections 341, 307, 323, 148, 149 of the Indian Penal Code, 1860 at Police Station Mataur, District SAS Nagar, Mohali and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioner.

16. All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

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*Quashing allowed*

