

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

CRM No.M-1382 of 2012 (O&M)

Date of Decision: February 19, 2015

Anil Kakria

.... Petitioner

vs.

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Atul Lakhanpal, Senior Advocate with
Ms. Bably Kumari, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Punjab.

Mr. Rohit Ahuja, Advocate for respondent No.2.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973, for quashing of FIR No.402, dated 18.10.2008, under Section 419, 420, 468, 471 and 120-B of the Indian Penal Code, 1860 (in short 'IPC'), registered at Police Station Phase-I, Mohali, District Mohali on the basis of compromise (Annexure P-4).

Report of learned Judicial Magistrate 1st Class, Mohali has been received. After recording the statements of the parties, learned Judicial Magistrate 1st Class, Mohali has reported that the parties have entered into a compromise without any fear, force or pressure.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel of the petitioner has argued that in view of the deed of compromise dated 20.12.2011 (Annexure P-4) and memorandum of understanding dated 25.01.2006 (Annexure P-1), the FIR should be quashed.

Learned counsel of the petitioner also relied upon the authority of Hon'ble the Apex Court in the case of **Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543**, wherein certain parameters were laid down for quashing the complaint. It was observed by Hon'ble the Supreme Court of India as under:

“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 what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to

the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The said request has been seriously opposed by the learned State Counsel. It has been argued that it is a partial compromise. It has also been argued that a serious crime has been

committed. In this regard, attention of this Court has been drawn to the allegations levelled in the FIR, which show that the complainant had filed a complaint against five persons. The complainant had appointed one Jeevan Parkash Khanna, property dealer, for purchase of property and he was authorized to deal on behalf of the complainant's company. It is further stated that the said Jeevan Parkash Khanna entered into a memorandum of understanding dated 25.01.2006 with Anil Kakria (present petitioner) for the purchase of land measuring 110 acres, situated in village Durali and Sukhgarh, Mohali, Sector 100, District Ropar. The present petitioner had two associates, namely, Param Veer Bhalla and Ajit Singh. Then it is stated that at the residence of the present petition, two persons, namely Teja Singh and Jai Pal Singh were introduced to Jeevan Parkash Khanna. Teja Singh had one voter card and similarly, Jai Parkash was also carrying one voter card. It was represented that Teja Singh was the owner in possession of land measuring 22 kanal, 1 marla, and Jai Pal Singh was the owner in possession of land measuring 22 kanals, 11 marla, situated at village Sukhgarh, District Ropar. It is stated that total consideration of ₹2,56,50,000/- (rupees two crores fifty six lacs fifty thousand only) was stated to have been paid at different occasions, through various cheques and in cash.

It is claimed by the petitioner that cheques of nearly ₹1,00,00,000/-(rupees one crore) were later on withheld by stopping the payment. During inquiry, it came out that the voter identity cards of Teja Singh and Jai Pal Singh were forged. The company of Jeevan

Parkash Khanna was also suspected to be forged. The land did not stand in the names of Jai Pal Singh and Teja Singh and in this way, fraud was committed with the complainant's company. It also came during the investigation that the said land stands in the name of some other persons.

I am of the view that it is not a case of simple cheating with the complainant. In this case, the public record in the form of voter identity cards was also forged. Copy of the jamabandi shown to the representative of the complainant, was also forged. In this way, the public record was forged, in which the State is aggrieved. This forgery is to be proved by the various officers of the departments of the Government.

Keeping in view the nature of the crime, I am of the view that when the documents of identity and the revenue record are forged for the purpose of cheating, the offence under Section 467, 471 and 120-B are also made out, for which the State is aggrieved.

State has categorically opposed the prayer for quashing of the FIR in question, on the basis of compromise. Therefore, keeping in view the nature of the case, facts and circumstances of the case, I do not find it a fit case for quashing of the FIR in question qua the present petitioner.

Petition is accordingly dismissed.

February 19, 2015
sarita

(KULDIP SINGH)
JUDGE