

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

CRM-M No.11263 of 2015

Date of Decision: 14.08.2015

Sher Singh and another

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Rajesh Pal, Advocate for the petitioners.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1/State.

JASWANT SINGH, J. (Oral)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No.32 dated 05.05.2012, under Sections 452, 323, 506, 148, 149, IPC, registered with Police Station Mullanpur Garibdass, District SAS Nagar (**Annexure P-1**) and the subsequent proceedings on the basis of compromise dated 19.09.2014 (**Annexure P-2**) arrived at between the parties.

As per allegations in the FIR, on 04.05.2012, when grandmother-Bhagi Devi of the complainant-Rekha was lying on the cot in the courtyard and complainant cleaning utensils there, various horns and sharp lights were coming in front of their gate and thereafter their gate opened forcibly by the petitioners/accused-Sher Singh, Dalip Singh @ Dalip Kumar and co-accused Jaik Ram and three other unknown persons. They came in front of the complainant and raising lalkaras loudly and said that where is Shama Badmash (her uncle) and inflicted several injuries on the complainant and his grandmother. The cause of enmity is that complainant's uncle has enmity of having good business of Property Dealer.

Vide order dated 16.07.2015, this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, a report/letter No. 497 dated 06.08.2015 has been received from the learned Judicial Magistrate 1st Class, Kharar, which is taken on record as **Mark-A**. It is stated in the report that the complainant has arrived at a compromise with the accused-petitioners.

Learned State Counsel, on instructions from ASI Avtar Singh, states that challan has not been presented. She further states that she is unable to raise any serious objection to the quashing of the FIR on the basis of the compromise since the complainant is not willing to support the prosecution case.

Hon'ble Supreme Court in **(2003) 4 SCC 675, B.S Joshi & Others Vs. State of Haryana & Another** has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers under Section 482 of the Code.

A Full Bench of this Court in **Kulwinder Singh and others v. State of Punjab and another, 2007(3) RCR (Criminal) 1052** has held that this Court, in appropriate cases, while exercising powers under Section 482 Cr.P.C., may quash an FIR disclosing the commission of non compoundable offences. The relevant extracts read as under:-

“ The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C., which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice. ”

Hon'ble Apex Court in another case in **J.T 2008(9) S.C 192, Nikhil Merchant Vs. Central Bureau of Investigation & Another** while relying upon its

decision in **B.S. Joshi's case (supra)** has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in **Madan Mohan Abot v. State of Punjab, 2008(4) SCC 582**, the relevant extract of which is as under:-

“ We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. ”

Keeping in view the above settled legal position and taking into account the fact that both the parties have desired to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C., for quashing of the FIR in the interest of justice.

Accordingly, the present petition is allowed and FIR No.32 dated 05.05.2012, under Sections 452, 323, 506, 148, 149, IPC, registered with Police Station Mullanpur Garibdass, District SAS Nagar (**Annexure P-1**) and all subsequent proceedings arising therefrom, are quashed.

August 14, 2015
Gagan

(JASWANT SINGH)
JUDGE