

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

1) CRM-M No.11578 of 2015 (O&M)

Mukhtiar Singh and others

..... Petitioners

Vs.

State of Punjab and another

..... Respondents

&

2) CRM-M No.11952 of 2015 (O&M)

Gurdeep Singh and others

..... Petitioners

Vs.

State of Punjab and another

..... Respondents

Date of Decision: 07.09.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Parminder Singh Kanwar, Advocate
for the petitioners in CRM-M No.11578 of 2015 and
respondent No.2 in CRM-M No.11952 of 2015.

Mr. Amit Arora, Advocate
for the petitioners in CRM-M No.11952 of 2015 and
respondent No.2 in CRM-M No.11578 of 2015.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1/State along with ASI Kulwinder Singh.

JASWANT SINGH, J. (Oral)

This order shall dispose of two aforementioned petitions as both these petitions have arisen out of the same occurrence.

Both the aforementioned petitions under section 482 Cr.P.C. are for quashing of FIR No.100 dated 26.08.2009, under Sections 323, 324, 148 and 149, IPC, registered with Police Station Verowal, District Tarn Taran (**Annexure P-1**),

its cross version recorded vide Rapat No.13 dated 28.08.2009 (**Annexure P-2 in CRM-M No.11952 of 2015**) in the aforementioned FIR and Criminal Complaint No.99 dated 23.11.2009, under Sections 307, 326, 325, 324, 323, 452, 148, 149 and 120-B, IPC (**Annexure P-3 in CRM-M No.11952 of 2015**) on the basis of compromise dated 28.03.2015 (**Annexure P-2 and P-6** respectively) arrived at between the parties along with all subsequent proceedings arising from that FIR.

As per allegations in the FIR, on 23.08.2009, when complainant-Gurdeep Singh after employing labour, who was preparing to raise the boundary wall with bricks, then petitioner No.3/accused-Vicky armed with *Datar* along with other petitioners/accused waylaid the complainant while raising lalkara by petitioner No.2/accused-Balwinder Singh and inflicted several injuries on the complainant because of the land in dispute prior to the incident.

The accused, who are in the FIR, are the ones who have been summoned for some offence in cross-version and for the remaining offences in the complaint. They are resident of the same village and have effected a comprehensive compromise.

Vide order dated 10.04.2015 (in CRM-M No.11578 of 2015), this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, report/letter No.214 dated 01.06.2015 has been received from the learned Sub Divisional Judicial Magistrate, Khadur Sahib, 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 Kulwinder Singh, states that out of 17 prosecution witnesses, 08 witnesses have been examined in the FIR.

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, both the aforementioned petitions are allowed. The aforementioned FIR along with its cross-version, criminal complaint and all subsequent proceedings arising therefrom, are quashed.

September 07, 2015
Gagan

(JASWANT SINGH)
JUDGE