

**IN THE HIGH COURT OF PUNJAB AND HARYANAT AT
CHANDIGARH.**

Date of Decision:-08.12.2015

CRM-M No.11850 of 2015

Gurpreet Singh @ Sonu & Ors.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondents.

AND

CRM-M No.11983 of 2015

Jorawar Singh & Ors.

.....Petitioners.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. D.S. Kahlon, Advocate for the Petitioners
(in CRM-M No.11850 of 2015) & for respondent no.2
(in CRM-M No.11983 of 2015).

Mr. Mikhail Kad, Assistant Advocate General, Punjab.

Ms. Jaspreet Kaur, Advocate for
Mrs. M.K. Kahlon, Advocate for respondent no.2-Complainant
(in CRM-M No.11850 of 2015) & for Petitioners
(in CRM-M No.11983 of 2015).

None for the injured Kuldeep Singh and Gurmukh Singh
respondent nos.3 & 4 (in CRM-M No.11850 of 2015).

JASWANT SINGH, J.(ORAL)

Vide this common order I shall dispose of both the aforesaid petitions as they are version and cross version emerging out of the same occurrence.

Prayer is under section 482 Cr.PC on behalf of five accused-petitioners (in **CRM-M No.11850 of 2015**) for quashing of **FIR** No.113 dated 11.11.2012 for offences punishable under Sections 324, 323, 341, 148, 149 of Indian Penal Code registered with Police Station Kalanaur Tehsil and District Gurdaspur lodged at the instance of complainant Jorawar Singh and subsequent proceedings arising therefrom on the basis of compromise dated 4.4.2015 (**P-2**).

In the **Cross Case** lodged at the instance of Gurpreet Singh registered Vide DDR No.22 dated 20.11.2012 under Section 324/34 of Indian Penal Code registered with Police Station Kalanaur Tehsil and District Gurdaspur four petitioners (in **CRM-M No.11983 of 2015**) have sought the quashing of the same and all the subsequent proceedings arising therefrom under Section 482 Cr.PC on the basis of compromise dated 4.4.2015 (**P-3**) .

As per allegations in the FIR levelled by complainant-Jorawar Singh on 10.11.2012 at about 2.00 PM when he alongwith his brother-in-law Gurmukh Singh and his cousin brother Kuldeep Singh were going on their tractor towards Rahimbad then in the way all the petitioners armed with deadly weapons such as Datar and Kirpan attacked on them on lalkara for crossing through their way which lead to the registration of the FIR.

As per allegations in the DDR lodged by complainant-Gurpreet Singh @ Sonu he was also attacked by the four petitioners which led to the

lodging of the DDR in the aforesaid FIR.

Upon notice of motion parties in both the petitions were given liberty to approach the learned Illaqa Magistrate by making appropriate application for getting their statements recorded in terms of the compromise and who shall submit its report regarding the genuineness of the compromise.

Report (Mark-A) in the shape of letter dated 31.08.2015 of learned Judicial Magistrate Ist Class, Gurdaspur duly forwarded by learned District & Sessions Judge, Gurdaspur vide endorsement dated 01.09.2015 has been received in CRM-M No.11850 of 2015 wherein it is stated that the parties appeared before that court and suffered statements recorded separately in terms of the compromise thereby stated that the matter between the parties has been compromised and complainants in both petitions have no objection if the aforesaid First Information Report as well as DDR and all consequential proceedings are quashed against the petitioners.

Compromise dated 4.4.2015 has been annexed as P-2. It is conceded that the same bears the signatures of all the parties including the injured Kuldeep Singh and Gurmukh Singh. The fact of the compromise is not in dispute even as per the report dated 31.08.2015 submitted by the learned Judicial Magistrate, Ist Class, Gurdaspur after recording the statements of the parties.

The statement of injured Kuldeep Singh in the main FIR who had suffered a simple injury on the left hand finger could not be recorded as he has left for Dubai to secure employment. However, it is agreed between the parties that he is also a signatory and party to the compromise.

Therefore, for all intents and purposes there is a effective compromise between the parties seeking the quashing of the version and cross version.

From the report submitted it is evident that the dispute between the petitioners-accused and the complainant regarding alleged attack out of which version and cross version emerges has been amicably resolved by entering into compromise wherein the complainant has stated that he/they has/have no objection if the aforesaid First Information Report as well as DDR against the petitioners-accused is quashed.

Learned State Counsel is unable to raise any serious objection in view of the statements recorded in terms of the aforesaid compromise whereby the complainant is not willing to support the case of the prosecution.

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 also 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 legal 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 aforesaid petition are allowed and FIR No.113 dated 11.11.2012 for offences punishable under Sections 324, 323, 341, 148, 149 of Indian Penal Code registered with Police Station Kalanaur Tehsil and District Gurdaspur and the subsequent proceedings arising therefrom as well as DDR No.22 dated 20.11.2012 under Section 324/34 of Indian Penal Code registered with Police Station Kalanaur Tehsil and District Gurdaspur and the subsequent proceedings arising therefrom are quashed against the petitioners in both the petitions.

**(JASWANT SINGH)
JUDGE**

December 08, 2015
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