

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

1) CRM-M No.12820 of 2015 (O&M)

Rakesh Kumar and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

&

2) CRM-M No.12827 of 2015 (O&M)

Harpreet Singh and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

Date of Decision: 01.10.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. H.S.Dhindsa, Advocate
for the petitioners in CRM-M No.12820 of 2015 and
respondent No.4 in CRM-M No.12827 of 2015.

Mr. Ramandeep Singh, Advocate
for the petitioners in CRM-M No.12827 of 2015 and
for respondent Nos.4 and 5 in CRM-M No.12820 of 2015.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent Nos.1 to 3/State along with HC Jagdev 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.70 dated 14.08.2011, under Sections 325, 323, 148, 149, 34,

IPC (Sections 148 and 149 were deleted in the FIR and Section 34, added at the time of presenting of Challan), registered with Police Station Meharban, District Ludhiana (**Annexure P-1**) as well as its cross-version recorded in the aforesaid FIR vide DDR No.07 dated 15.08.2011, under Sections 323, 325, 148, 149, 34, IPC (Sections 148 and 149 were deleted in the FIR and Section 34, added at the time of presenting of Challan), registered with Police Station Meharban, District Ludhiana (**Annexure P-2**) and the subsequent proceedings arising therefrom on the basis of compromise dated 12.02.2015 (**Annexures P-2 and P-3** respectively) and affidavits dated 09.04.2015 of Harpreet Singh (respondent No.4) and Mangal Singh @ Johny (respondent No.5) [**Annexures P-3 and P-4** respectively in the main case] arrived at between the parties along with all subsequent proceedings arising from that FIR and cross-version.

As per allegations in the FIR (in CRM-M No. 12820 of 2015), on 11.08.2011 at about 10.00 P.M., when the complainant-Harpreet Singh along with Mangal Singh reached in front of bus stop of Village Sayuwal, petitioners/accused along with co-accused, armed with *sticks, gandasas, baseball bat, and rod*, waylaid the complainant party and inflicted several injuries, because of earlier dispute with petitioner No. 3-Amarjit Singh, prior to the incident.

As per allegations in the DDR (in CRM-M No. 12827 of 2015), on 01.08.2011 at about 9.00 p.m., when the complainant/respondent No. 4-Rakesh Kumar, after purchasing quarter (mini-bottle) of whisky from liquor-vend was returning back, petitioners/accused along with co-accused (already present there), armed with a *small knife*, waylaid the complainant and inflicted several injuries, because of supporting to Amarjit Singh, Sarpanch of village Kadiana Kalan.

Vide order dated 23.04.2015 (in CRM-M No.12820 of 2015), this

Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, report/letter Nos.1186 and 1187 dated 10.06.2015 respectively have been received from the learned Judicial Magistrate 1st Class, Ludhiana, which are taken on record as **Mark-A**. It is stated in the report that the complainant party has arrived at a compromise with the petitioners/accused.

Learned State Counsel, on instructions from HC Jagdev Singh, states that out of 08 prosecution witnesses, 02 witnesses have been examined in the FIR whereas out of 07 prosecution witnesses, 01 witness has been examined in the cross-version.

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 and all subsequent proceedings arising therefrom, are quashed.

October 01, 2015
Gagan

(JASWANT SINGH)
JUDGE