

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

Date of decision:28.10.2015

Mukesh Kumar

.....Petitioner

v.

State of Punjab and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Munish Puri,Advocate for the petitioner
Mr.Kirat Singh Sidhu,Deputy Advocate General
for State of Punjab
Mr.Mukesh Kumar, Legal Officer-Authorised Person for
respondent no.2-Complainant Company.

Jaswant Singh,J.(Oral)

Prayer in this petition under Section 482 Cr.PC is for quashing of FIR No.83 dated 12.6.2014 under Sections 420/406/465/467/468/471 IPC, PS Division No.2,Distt.Pathankot and all subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties.

This Court vide order dated 27.8.2015 had directed the parties to appear before the Court concerned to get their statements recorded regarding genuineness of the compromise.

In compliance thereof,learned JMIC,Pathankot vide his report dated 24.9.2015 has reported that both sides got recorded their statements with regard to compromise voluntarily and do not want to

litigate any further. The said report is taken on record as Mark-A.

As per allegations in the FIR, petitioner-Mukesh Kumar while working as Executive-I Accounts with the complainant company embezzled a sum of Rs.3,44,445/- and later on undertook to deposit the aforesaid money in two months.

Learned State counsel on instructions from ASI Harpreet Singh states that the matter is still under investigation.

On the other hand, Mr.Mukesh Kumar, Legal Officer and authorised person of complainant-respondent no.2 company states that the amount in question has been deposited by the petitioner and received by the company.

Hon'ble Supreme Court in **(2003)4 SCC 675, B.S.Joshi and others v State of Haryana and 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 extract reads as under:-

“The only inevitable conclusion from the above discussion is

RAJINDER PRASHAD JOSHI
2015.10.28 16:06
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh.

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) SC 192 Nikhil Merchant v Central Bureau of Investigation and 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.83 dated 12.6.2014 under Sections 420/406/465/ 467/468/471 IPC, PS Division No.2,Distt.Pathankot and all subsequent proceedings arising therefrom are quashed.

28.10.2015.
joshi

(Jaswant Singh)
Judge