

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

Date of decision:06.10.2015

Ashwani and others

.....Petitioners

v.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.JK Goel,Advocate for the petitioners
Mr.RK Doon,AAG Haryana
Mr.Karan Garg,Advocate for complainants- respondents
2 and 3.

Jaswant Singh,J.(Oral)

Prayer is for quashing of FIR No.262 dated 3.9.2014 under Sections 406/420/120-B IPC, PS City Kaithal,Haryana and all consequential proceedings arising therefrom on the basis of compromise (P-2 and P-3).

Vide order dated 18.5.2015 passed by this Court parties were directed to appear before learned JMIC,Kaithal to get their statements recorded regarding genuineness of the compromise.

In compliance thereof learned JMIC,Kaithal vide her report dated 19.8.2015 has stated that statements of as many as 22 persons including complainants-respondents 2 and 3, as that of petitioners were recorded. The complainants as well as other affected persons made statements without any pressure,coercion or undue influence and stated

that they have no objection if the FIR in question is quashed. The said report is taken on record as Mark-A.

As per allegations in the FIR the petitioners are accused of cheating complainants and others by launching a scheme known as Tata Nano Car whereby the affected persons were to pay Rs.3000/- per month for 40 months and in return they were to get Nano car. However, later on the company of the petitioners was found to be a false one.

Learned State counsel on instructions from ASI Ramesh Chand states that after presentation of challan charges have been framed and the prosecution evidence is yet to be recorded.

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

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.262 dated 3.9.2014 under Sections 406/420/120-B IPC, PS City Kaithal, Haryana and all consequential proceedings arising therefrom are quashed.

06.10.2015.
joshi

(Jaswant Singh)
Judge