

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

CRM-M No.18590 of 2015 (O&M)

Date of Decision: 15.09.2015

Harjinder Kaur and another

..... Petitioners

Vs.

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. V.K.Sandhir, Advocate for the petitioners.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1/State along with H.C. Joga Singh.

Mr. Umesh Kumar Kanwar, Advocate
for respondent No.2/complainant.

JASWANT SINGH, J. (Oral)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No.36 dated 17.02.2014, under Sections 406 and 120-B, IPC, registered with Police Station Cantonment, Amritsar City (**Annexure P-1**) and the subsequent proceedings on the basis of compromise dated 30.04.2015 (**Annexure P-2**) arrived at between the parties.

As per allegations in the FIR, petitioner No.1-Harjinder Kaur (wife of respondent No.2/complainant-Shamsher Singh), ran away with petitioner No.2-Bunty Singh, after taking the gold jewellery, cash and mobile etc., having illicit relations.

Vide order dated 29.05.2015, this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, a report/letter No. 507 dated 30.07.2015 has been received from the learned Judicial Magistrate 1st Class, Amritsar, which is taken on record as

Mark-A. It is stated in the report that the complainant-Shamsher Singh has arrived at a compromise with the petitioners/accused without any undue influence or pressure and he has no objection if the aforesaid FIR is quashed on the basis of compromise.

Learned State Counsel, on instructions from HC Joga Singh, states that challan has been presented and charges have not been framed. She further states that she is unable to raise any serious objection to the quashing of the FIR on the basis of the compromise since the complainant is not willing to support the prosecution case.

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, the present petition is allowed and FIR No.36 dated 17.02.2014, under Sections 406 and 120-B, IPC, registered with Police Station Cantonment, Amritsar City (**Annexure P-1**) and all subsequent proceedings arising therefrom, are quashed.

September 15, 2015
Gagan

(JASWANT SINGH)
JUDGE