

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

CRM-M No.24558 of 2014 (O&M)

Date of Decision: 10.09.2015

Bhagat Singh @ Raj Kumar

..... Petitioner

Vs.

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. M.S.Sidhu, Additional Advocate General, Haryana
for respondent No.1/State along with HC Rajesh Kumar.

Mr. Vishal Satija, Advocate for
Mr. Vansh Malhotra, Advocate for respondent No.2/complainant.

JASWANT SINGH, J. (Oral)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No.376 dated 30.05.2013, under Sections 341, 452, 323, 506, 307, IPC and Section 27 of the Arms Act, registered with Police Station Sadar Bhiwani, District Bhiwani (**Annexure P-1**) and the subsequent proceedings on the basis of compromise by way of affidavit dated 17.04.2014 of the complainant-Nirma (**Annexure P-2**) arrived at between the parties.

As per allegations in the FIR, on 22.05.2013, complainant/respondent No.2-Nirma along with Rajesh and Hannu Pandit had gone to the field, where they started ploughing the field with the tractor of Kallu, being driven by Hannu Pandit. At that time, petitioner/accused came there and threatened to kill the complainant party. When the complainant was going towards the house of Rajesh and entered his house, then petitioner came on motorcycle and also entered in the house of

Rajesh where the petitioner caught hold the complainant forcibly and fired gun shot through his pistol upon the complainant and also threatened to kill the remaining complainant party.

Vide order dated 03.11.2014, this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, a report/letter No. 636 dated 17.12.2014 has been received from the learned Addl. Chief Judicial Magistrate, Bhiwani, which is taken on record as **Mark-A**. It is stated in the report that the complainant-Nirma has arrived at a compromise with the accused-petitioner without any undue influence and pressure.

Learned Counsel for the petitioner submits that the petitioner/accused and the complainant party are in family relations and have compromised the matter.

Learned State Counsel, on instructions from H.C. Rajesh Kumar states that charges have been framed against the accused on 24.07.2013. He further submits that he 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 from the allegations prima facie no offence under Section 307 IPC is made out as no injury was caused to anybody and 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.376 dated 30.05.2013, under Sections 341, 452, 323, 506, 307, IPC and Section 27 of the Arms Act, registered with Police Station Sadar Bhiwani, District Bhiwani (**Annexure P-1**) and all subsequent proceedings arising therefrom, are quashed.

September 10, 2015

Gagan

(JASWANT SINGH)
JUDGE