

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

**CRM-M No. 26162 of 2015 (O&M)
Date of Decision: 07.12.2015**

Raju Shivhare and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Kuldeep Singh Saini, Advocate
for the petitioners.

Ms. Rimplejeet Kaur, AAG, Punjab
for respondent No. 1/State alongwith ASI Kewal Singh.

None for respondent Nos. 2 and 3.

JASWANT SINGH, J. (ORAL)

Present petition, under Section 482 of the Code of Criminal Procedure, on behalf of the petitioners, is for quashing of FIR No. 156, dated 13.11.2014 **(Annexure P-1)** for offences punishable under Section 420 of the Indian Penal Code and Section 66-D of the Information Technology, Act, 2000, registered at Police Station Nangal, District Ropar and all subsequent proceedings arising therefrom on the basis of compromise dated 28.07.2015 **(Annexure P-2)** arrived at between the parties.

As per allegations, *inter alia*, both the complainants (respondent Nos. 2 and 3 herein) were cheated by the petitioners on the pretext of winning lottery by them. The petitioners asked them to deposit Rs. 93,500/- in their accounts. Hence, the FIR.

Vide order dated 09.10.2015, this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of

which, a report/letter No. 346 dated 30.11.2015 has been received from the learned Sub Divisional Judicial Magistrate, Anandpur Sahib, which is taken on record as **Mark-A**. It is stated in the report that the complainant party has arrived at a compromise with the accused-petitioners without any undue influence and pressure.

Learned State Counsel, on instructions from ASI Kewal Singh, states that the matter is still under investigation.

Although, the statement of petitioner No. 2 is not recorded, but both the complainants have got their statements recorded in terms of the compromise. Since the complete compromise by the affected person(s) is not in dispute, therefore, non-recording of the statement of petitioner No. 2 is thus would not be material in the present 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 the aforesaid FIR and all subsequent proceedings arising therefrom, are quashed.

December 07, 2015

'dk kamra'

(JASWANT SINGH)
JUDGE