

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

CRM-M No.33742 of 2013

Date of Decision: 07.09.2015

Harpreet Kaur @ Puneet Kaur

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. T.P.S.Tung, Advocate for the petitioner.

Mr. Mikhil Kad, Assistant Advocate General, Punjab
for respondent Nos.1 to 3.

Mr. G.S.Jagpal, Advocate for respondent No.4/complainant.

JASWANT SINGH, J. (Oral)

The petitioner is seeking the quashing of FIR No.42 dated 18.02.2006, under Sections 420, 468, 471, 120-B and 201, IPC, registered with Police Station City Khanna, District Ludhiana (**Annexure P-1**), as also the order dated 28.09.2006 (**Annexure P-2**), passed by the learned Sub Divisional Judicial Magistrate, Khanna, whereby the petitioner/accused has been declared as proclaimed offender, along with the subsequent proceedings on the basis of compromise dated 12.08.2013 (**Annexure P-4**) arrived at between the parties

It is stated that apart from no offence being made out from the reading of the FIR as also during the investigation, the petitioner has effected a compromise (**P-4**) with the complainant-Rajinder Singh, whereas rest of three accused have been duly acquitted by the learned trial Court, vide judgment dated 22.02.2012 (**Annexure P-5**).

The reason for non-appearance at the initial stage leading to the petitioner being declared as proclaimed offender is that she was at the relevant time a resident of Australia.

It is apparent that the allegations are that co-accused Sukhwinder Singh @ Sukhi posed as Mandeep Singh for obtaining his passport as Mandeep Singh under forged documents. Co-accused Major Singh and Gurcharan Singh have facilitated such an endeavour. Rajinder Singh @ Jeet-complainant being a Municipal Councillor of the area was induced into certifying the identity of the said accused-Sukhwinder Singh as Mandeep Singh. The petitioner is the wife of said Sukhwinder Singh and as such does not figure into any of the allegations.

Learned State Counsel, on instructions from ASI Baldev Raj, concedes that rest of three co-accused have been acquitted, vide order dated 22.02.2012 (P-5) and no appeal was filed by the State.

The complainant-Rajinder Singh has filed his affidavit (**Annexure P-3**) acknowledging the compromise effected with the petitioner wherein he states that he has no objection if the present FIR is quashed.

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. The order dated 28.09.2006 (**Annexure P-2**) is set aside and FIR No.42 dated 18.02.2006, under

Sections 420, 468, 471, 120-B and 201, IPC, registered with Police Station City Khanna, District Ludhiana (**Annexure P-1**) and all subsequent proceedings arising therefrom, are quashed.

September 07, 2015

Gagan

(JASWANT SINGH)
JUDGE