

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

1) CRM-M No.34694 of 2015 (O&M)

Hakam Singh and others

..... Petitioners

Vs.

State of Punjab and another

..... Respondents

&

2) CRM-M No.39445 of 2015 (O&M)

Jarnail Kaur and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

Date of Decision: 04.12.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Sonal Dutta, Advocate for
Mr. Amar Ashok Pathak, Advocate
for the petitioners in CRM-M No.34694 of 2015 and
respondent Nos.2 and 3 in CRM-M No.39445 of 2015.

Mr. Sunny K. Singla, Advocate
for the petitioners in CRM-M No.39445 of 2015 and
for respondent No.2 in CRM-M No.34694 of 2015.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1/State along with ASI Nirbhaya Singh.

JASWANT SINGH, J. (Oral)

This order shall dispose of two aforementioned petitions as both these petitions have arisen out of the same occurrence. It is a version and a cross-version case.

Both the aforementioned petitions under section 482 Cr.P.C. are for quashing of FIR No.113 dated 13.08.2007, under Sections 324, 325 and 506, IPC,

registered with Police Station City Malerkotla and the cross-version in Complaint No.57 dated 12.06.2008, under Sections 452, 325, 323, 324, 341, 506, 148 and 149, IPC (**Annexure P-1 respectively**); further challenge is to the summoning order dated 06.02.2014, passed by learned SDJM, Malerkotla (**Annexure P-2**) and all subsequent proceedings arising therefrom on the basis of compromise dated 04.05.2015 (**Annexures P-2 and P-3 respectively**) arrived at between the parties.

As per allegations in the FIR (in CRM-M No. 34694 of 2015), *inter alia*, petitioners/accused armed with *Kirpan* and *Sticks* respectively, entered in the house of complainant/respondent No.2-Surinder Kaur and inflicted several injuries to the complainant party with intention to grab their house.

As per allegations in the complaint/cross-version case (in CRM-M No.39445 of 2015), *inter alia*, petitioners/accused armed with *Lathis* etc., entered in the house of complainant party (of the cross-version) and inflicted several injuries upon them with intention to grab their house.

Vide order dated 09.10.2015 (in CRM-M No.34694 of 2015), this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, report/letter No.418 dated 03.11.2015 has been received from the learned Civil Judge (Jr. Divn.)-cum-Judicial Magistrate 1st Class, Malerkotla (Sangrur), which is taken on record as **Mark-A**. It is stated in the report that both the parties have voluntarily and without any pressure arrived at a compromise and further they have no objection if the aforesaid FIR and the cross-version in complaint are quashed on the basis of compromise.

Learned State Counsel, on instructions from ASI Nirbhaya Singh, submits that the case (**CRM-M No. 34694 of 2015**) is fixed for recording of prosecution evidence.

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, both the aforementioned petitions are allowed. The aforementioned FIR along with the cross-version in complaint case and all subsequent proceedings arising therefrom, are quashed.

December 04, 2015
Gagan

(JASWANT SINGH)
JUDGE