

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Crl.Misc-M- 40388 of 2013 (O&M)

Date of Order: 24.08.2015

Usha Rani and Ors.

....Petitioners

Versus

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Naveen Sharma, Advocate for the petitioners.

Mr. Mikhil Kad, AAG, Punjab.

Mr. N.S. Dhillon, Advocate for respondent Nos.3 & 4.

JASWANT SINGH, J (ORAL)

Prayer is under section 482 Cr.PC for quashing of FIR No.22 dated 19.1.2006 under Sections 420,120-B IPC, P.S Division No.5, District Ludhiana and the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

As per allegations, petitioner No.2-Prem Chander being owner of Property No.B-I-941/3A measuring 47 sq. yds in Khasra No.653, Khata No.2710/3088, District Ludhiana as mentioned in jamabandi for the year 1996-97 entered into an agreement of sale dated 30.1.2001 with petitioner No.1-Usha Rani, received full and final sale consideration of said property and delivered the possession of the same to petitioner No.1-Usha Rani. Thereafter, Petitioner No.1-Usha Rani through her GPA one Kamal Kapoor entered into an agreement to sell the property to son of the complainant for a

total sale consideration of Rs.2,30,000/- but meanwhile when inquired, it transpired that petitioner No.2-Prem Chander had already raised loan by mortgaging the property in question from Punjab National Bank, Ludhiana thereby defrauding the son of the complainant.

Upon notice of motion parties were given liberty to approach the learned Illaqa Magistrate by making appropriate application for getting their statements recorded in terms of the compromise and who shall submit its report regarding the genuineness of the compromise.

Report (Mark-A) has been received from the learned Judicial Magistrate, Ist Class, Ludhiana in the shape of letter dated 06.5.2015 duly forwarded by learned District & Sessions Judge, Ludhiana vide letter dated 11.5.2015 wherein it is stated that the parties appeared before that court and suffered statements recorded separately in terms of the compromise thereby stated that the matter between the parties has been compromised and complainant has no objection if the aforesaid FIR and all consequential proceedings are quashed against the petitioners.

From the report submitted it is evident that the dispute between the petitioner-accused and the complainant has been amicably resolved by entering into compromise wherein the complainant has stated that he has no objection if the present FIR against the petitioners-accused is quashed.

Learned State Counsel submits that he is unable to raise any serious objection in view of the statements recorded in terms of the aforesaid compromise whereby the complainant is not willing to support the case of the prosecution.

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 also 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 legal 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.22 dated 19.1.2006 under Sections 420,120-B IPC, P.S Division No.5, District Ludhiana and the subsequent proceedings arising therefrom are quashed against the present petitioner.

August 24, 2015
manoj

(JASWANT SINGH)
JUDGE

