IN THE HIGH COURT OF PUNJAB AND HARYANAT AT CHANDIGARH.

CRM-M No.40641 of 2015

Date of Decision:-12.02.2016

Ashwani Kumar & Anr.

.....Petitioners.

Versus

State of Punjab & Anr.

.....Respondents**.**

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Dheeraj Mahajan, Advocate for the Petitioners.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab assisted by ASI Subash Chander.

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JASWANT SINGH, J.(ORAL)

Prayer is under section 482 Cr.PC for quashing of FIR No.01 dated 02.01.2014 for offences punishable under Sections 420, 407, 408, 465, 468 of Indian Penal Code registered with Police Station Qadian, Police District Batala, District Gurdaspur and the subsequent proceedings arising therefrom on the basis of compromise dated 22.11.2015 (Annexure **P-2**).

As per allegations in the FIR levelled by complainant Ukesh Kumar Julka, petitioners-accused have placed orders for supply of Maida and Suzi with the complainant for a huge amounts. Neither the goods of the complainant were returned nor the amount of those goods was paid and thereby they cheated the complainant.

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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) in the shape of letter dated 24.12.2015 of learned Judicial Magistrate Ist Class, Batala duly forwarded by learned District & Sessions Judge, Gurdaspur vide letter dated 04.01.2016 has been received 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 petitioners-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 on instructions from ASI Subash Chander submits that case is at the stage of investigation and challan is yet to be filed and 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

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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

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> 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.01 dated 02.01.2014 for offences punishable under Sections 420, 407, 408, 465, 468 of Indian Penal Code registered with Police Station Qadian, Police District Batala, District Gurdaspur and the subsequent proceedings arising therefrom are quashed against the petitioners.

(JASWANT SINGH)
JUDGE

February 12, 2016
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