

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

Date of decision:09.10.2015

Sham Lal

.....Petitioner

v.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sunil Agnihotri,Advocate for the petitioner
Mr.Mikhil Kad,AAG Punjab
Mr.RS Rawat,Advocate for the complainant.

Jaswant Singh,J.(Oral)

Prayer is for quashing of FIR No.60 dated 22.3.2008 under Sections 323,324,506,34 IPC(Section 326 IPC added later on) PS Sadar Pathankot and all consequential proceedings arising therefrom on the basis of compromise arrived at between the parties.

Vide order dated 9.2.2015 parties were directed to get their statements recorded before the Illaqa Magistrate/trial court regarding genuineness of the compromise.

Vide his report dated 4.3.2015 learned CJM,Pathankot has reported that compromise has been entered into between the parties without any pressure,threat or promise and with their free consent.

Learned counsel for the petitioner concedes that co-accused Joginder Singh Binda was convicted for offence under Sections

323,326 IPC and sentenced to undergo maximum sentence of three years whereas the petitioner having been declared a PO earlier was not prosecuted in that trial. However, this Court in CRR 3946/2014 filed by said Joginder Singh has already suspended the sentence on the basis of compromise. Thus, reliance is based on the compromise for quashing of the proceedings which are at the stage of framing of charge.

Learned State counsel on instructions from ASI Gurinder Pal Singh does not dispute the aforesaid factual position.

The dispute herein is between family members as petitioner is the real brother of deceased Ashok Kumar.

Hon'ble Supreme Court in **(2003)4 SCC 675, B.S.Joshi and others v State of Haryana and 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 extract reads 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) SC 192**

Nikhil Merchant v Central Bureau of Investigation and 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 FIR No.60 dated 22.3.2008 under Sections 323,324,506,34 IPC(Section 326 IPC added later on) PS Sadar Pathankot and all consequential proceedings arising therefrom are quashed.

09.10.2015.
joshi

(Jaswant Singh)
Judge