

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

CRM-M No.42163 of 2014 (O&M)

Date of Decision: 07.10.2015

Harish Kumar @ Rishi and another

..... Petitioners

Vs.

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab
for respondent No.1/State along with HC Balwinder Kumar.

Mr. G.S.Rawat, Advocate for respondent No.2/Complainant.

JASWANT SINGH, J. (Oral)

Present petition under Section 482 Cr.P.C. is for quashing of FIR No.111 dated 20.05.2002, under Sections 148, 149, 323, 325 and 341 of the Indian Penal Code, registered with Police Station Division No.6, Jalandhar and the subsequent proceedings on the basis of compromise dated 09.06.2004 (**Annexure P-3**) arrived at between the parties.

As per allegations in the FIR, on 19.05.2002 at around 8:30 AM, respondent No.2/complainant-Sarabjit Singh was going to village on his motorcycle, petitioners/accused along with other co-accused, armed with *Dang*, *Kirpan*, *Datar*, *Baseball bat* etc. respectively, waylaid the complainant while raising lalkara by one co-accused Dharamvir and inflicted several injuries on the person of the complainant.

In the present case, there were six accused persons. Three accused persons, namely, Dalip Kumar, Deepak Kumar @ Kartar and Sunil Kumar @

Kaka concededly have already been acquitted, vide judgment dated 13.07.2012 (**Annexure P-2**), passed by learned JMIC, Jalandhar. One of the accused, namely, Dharamvir is still absconding and has been declared proclaimed offender. The remaining two accused i.e. present petitioners, namely, Harish Kumar @ Rishi and Banti have arrived at a compromise with the complainant in terms of the compromise (**P-3**).

Although the occurrence relates to the year 2002, learned State Counsel, on instructions from HC Balwinder Kumar, states that qua the petitioners, the case is at the stage of framing of charges.

Vide order dated 22.04.2015 and subsequent order dated 18.08.2015, this Court directed the learned Illaqa Magistrate/trial Court to send report with regard to compromise in pursuance of which, a report/letter No. 361 dated 03.10.2015 has been received from the learned Civil Judge (Jr. Divn.)-cum-Judicial Magistrate 1st Class, Jalandhar, which is taken on record as **Mark-A**. It is stated in the report that the complainant has arrived at a compromise with the petitioners/accused without any undue influence and pressure.

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 and FIR No.111 dated

20.05.2002, under Sections 148, 149, 323, 325 and 341 of the Indian Penal Code, registered with Police Station Division No.6, Jalandhar and all subsequent proceedings arising therefrom, are quashed.

October 07, 2015

Gagan

**(JASWANT SINGH)
JUDGE**