

**IN THE HIGH COURT OF PUNJAB AND HARYANAT AT
CHANDIGARH.**

CRM-M No.12993 of 2016

Date of Decision:-01.06.2016

Vinay Pilania & Ors.

.....Petitioners.

Versus

State of Haryana & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Naveen S. Bhardwaj, Advocate for the Petitioners.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
assisted by ASI Ram Kishan.

JASWANT SINGH, J.(ORAL)

Prayer is under section 482 Cr.PC for quashing of FIR No. 361 dated 08.06.2015 for offences punishable under Sections 147, 149, 365, 342, 467, 468, 471, 323, 506 of Indian Penal Code (Section 465 IPC added later on and Sections 468 and 471 IPC dropped) registered with Police Station Sadar, Bhiwani and all the subsequent proceedings arising therefrom on the basis of compromise dated 27.03.2016 (Annexure P-2).

The allegations of the complainant Ajay Yadav are that the petitioner along with co-accused had kidnapped the complainant for non payment of the installment of loan taken by him and had got affixed his signatures on some documents under threat and coercion whereby his Ford Car was got transferred in the name of the petitioner-Vinay Pilania, who

happened to be a Advocate.

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 19.05.2016 of learned Additional Chief Judicial Magistrate, Bhiwani duly forwarded by learned District & Sessions Judge, Bhiwani vide letter dated 23.05.2016 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.

It is also not in dispute that that the complainant acknowledges the compromise, however, the same was subject to withdrawal of complaint filed under Section 138 of the Negotiable Instruments Act, 1881 by the co-accused Naresh Dalal against the complainant qua the alleged dishonoured cheque for an amount of Rs.7-1/2 lacs.

At the time of hearing learned Counsel for the petitioner-accused submits that accused Naresh Dalal has withdrawn the said complaint pending before the learned ACJM on 27.05.2016. Certified copy of the same has been produced and the same is taken on record as Mark-B. Thus it is submitted that the settlement between the parties is complete.

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 Ram Kishan submits that case is still under investigation 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 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

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.0361

dated 08.06.2015 for offences punishable under Sections 147, 149, 365,

342, 467, 468, 471, 323, 506 of Indian Penal Code (Section 465 IPC added later on and Sections 468 and 471 IPC dropped) registered with Police Station Sadar, Bhiwani and the subsequent proceedings arising therefrom are quashed against the petitioners.

**(JASWANT SINGH)
JUDGE**

June 01, 2016
Vinay