

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

CRM-M-37746 of 2015
Date of decision: 24.02.2016

Ajay Kumar & others

----Petitioner (s)

V/s

State of Punjab & another

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. V.K. Kaushal, Advocate for
Mr. Naveen Batra, Advocate for the petitioners.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Rimple Saini, Advocate for respondent no.2.

HARI PAL VERMA, J.(Oral)

Prayer made in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.77 dated 31.03.2015 registered under Sections 306, 34 IPC, at Police Station Model Town, District Hoshiarpur and all other consequential proceedings arising therefrom on the basis of compromise dated 23.06.2015(Annexure P-2).

This Court vide order dated 04.11.2015 had directed the parties to appear before the Illaqa Magistrate/CJM, Hoshiarpur on 14.12.2015 or any other date convenient to the Court to get their statements recorded with regard to compromise and the learned

Court was directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Court was further directed to send report along with the statements of the parties with regard to validity or otherwise of the compromise.

Pursuant to the aforesaid order dated 04.01.2016, the parties have appeared before learned Chief Judicial Magistrate, Hoshiarpur and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has forwarded his report dated 04.01.2016 to the effect that the parties have willfully settled their differences and reached at a bona fide compromise without any pressure and the same is genuine.

The statement made by the complainant-respondent No.2, namely, *Lakhwinder Kaur @ Balwinder Kaur wife of late Shri Jai Raj* before the Magistrate on 14.12.2015, reads as under:-

“The FIR No.77 dated 31.03.2015 U/s 306, 34 IPC was registered at P.S. Model Town, Hoshiarpur on the basis of my statement before the police against accused Ajay Kumar, Kamal Kumar and Dhiraj Kumar. Now with the intervention of respectables, the dispute between me and accused has been settled amicably and voluntarily vide compromise deed dated 23.06.2015, (original compromise deed has already been submitted before the Hon'ble High Court), which bears my signatures. Now there is no dispute between me and accused. I have no grudge against the accused. The compromise is effected for the welfare of the parties. The compromise has been effected without any fear, threat, pressure or coercion and is with my own sweet will. I have no objection, if the above said FIR is quashed against the accused and the accused be acquitted. Except this case no case is pending between me and the accused persons.”

Apart from the above statement, whereby respondent No. 2-complainant has shown no objection to the FIR being quashed, there is nothing on record to doubt the genuineness of the compromise, as arrived between the parties. Thus, no useful purpose would be served to continue with the proceedings in the instant FIR.

Mr. Rimple Saini, Advocate, has put in appearance on behalf of respondent no.2-complainant and admits the factum of compromise. He also states that he has no objection if the present FIR is quashed against the petitioners-accused.

Learned counsel for the State, on instructions from ASI-Jagjit Singh, submits that the matter is at the investigation stage and challan has not been presented and he is unable to raise any serious objections in view of the statements recorded in terms of the compromise, whereby, the complainant is not willing to support the case of the prosecution.

Heard.

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.77 dated 31.03.2015 registered under Sections 306, 34 IPC, at Police Station Model Town, District Hoshiarpur and the subsequent proceedings arising therefrom qua the petitioners are quashed in view of the compromise dated 23.06.2015(Annexure P-2).

24.02.2016
Anjal

[HARI PAL VERMA]
JUDGE