

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

Date of decision:30.03.2016

Raghbir Singh Mohi

.....Petitioner

v.

State of Punjab and another

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.AS Jattana,Advocate for the petitioner

Mr.Kirat Singh Sidhu,DAG Punjab
with ASI Bahadur Ram

Mr.GS Brar,Advocate for the complainant

Jaswant Singh,J.(Oral)

Prayer under Section 482 Cr.PC is for quashing of FIR No.108 dated 2.12.2015 under Sections 452,506 IPC and Section 27 of the Arms Act (Section 307 IPC deleted),PS Banur,Distt.Patiala on the basis of compromise in the shape of affidavit dated 17.2.2016 (P-3).

Vide order dated 23.2.2016 while issuing notice of motion parties were directed to get their statements recorded with regard to compromise and the concerned court was directed to send a report to this effect.

In compliance of the order dated 23.2.2016, learned JMIC, Mohali, after recording statements of the parties concerned, vide his

report dated 19.3.2016 has concluded that the compromise is correct and has been effected voluntarily, without any pressure, coercion or undue influence and that accused has never been declared as a PO.

Heard learned counsel for the parties.

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.108 dated 2.12.2015 under Sections 452,506 IPC and Section 27 of the Arms Act (Section 307 IPC deleted),PS Banur,Distt.Patiala and all subsequent proceedings arising therefrom, are quashed.

30.03.2016
joshi

(Jaswant Singh)
Judge