

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.10136 of 2020 (O&M)
Reserved on: 09.05.2022
Pronounced on: 13.07.2022

Sekul Khan

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepanshu Matya, Advocate
 for the petitioner.

 Mr. Manish Bansal, DAG, Haryana.

 Mr. Shivoy Dhir, Advocate,
 for respondent No.2.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
221	29.05.2019	Sector-31, Faridabad, District Faridabad	406 and 418 IPC

The petitioner, arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 Cr.P.C. for quashing of the FIR and all consequential proceedings based on the compromise with the aggrieved person.

2. During the pendency of the petition, the accused and the aggrieved person have compromised the matter, and its copy is annexed with this petition as Annexure P-2.
3. After that, the petitioner came up before this Court to quash the FIR, and in the quashing petition, impleading the aggrieved person as respondent.
4. On 29-03-2022, the aggrieved person Axis Bank, through its Branch Head, Ms. Sharda Singhal (R-2) appeared before the JMIC, Faridabad and stated that there would be no objection if the court quashes this FIR and consequent proceedings. As per the concerned court's report dated 01-04-2022, the parties consented to the quashing of FIR and consequent proceedings without any threat.

ANALYSIS & REASONING:

5. Despite the severe opposition of the State's counsel to this compromise, the following aspects would be relevant to conclude this petition: -

- a) The accused and the private respondent have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;
- b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;
- c) The aggrieved person has willingly consented to the nullification of criminal proceedings;
- d) There is no objection from the private respondent in case present FIR and consequent proceedings are quashed;
- e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;
- f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;
- g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;
- h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, community, and society;
- i) The exercise of the inherent power for quashing FIR and all consequential proceedings is justified to secure the ends of justice.

6. In the present case the offence under Sections 406 & 418 of Indian Penal Code, 1860 is compoundable under Section 320 Cr.P.C.

7. In C.B.I., New Delhi v. Duncans Agro Industries Ltd., Calcutta, 1996(5) SCC 591, Hon'ble Supreme Court holds,

[26]. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the respective counsel for the parties, it appears to us that for the purpose of quashing the complaint, it is necessary to consider whether the allegation in the complaint *prima facie* make out an offence or not. It is not necessary to scrutinise whether the allegations are likely to be upheld in the trial. Any action by way of quashing the complaint is an action to be taken at the threshold before evidences are led in support of the complaint. For quashing the complaint by way of action at the threshold, it is, therefore, necessary to consider whether on the face of the allegations, a criminal offence is constituted or not.

[29]. In the facts of the case, it appears to us that there is enough justification for the High Court to hold that the case was basically a matter of civil dispute. The Banks had already filed suits for recovery of the dues of the Banks on account of credit facility and the said suits have been compromised on receiving the payments from the concerned Companies. Even if an offence of cheating is *prima facie* constituted, such offence is a compoundable offence and compromise decrees passed in the suits instituted by the Banks, for all intents and purposes, amount to compounding of the offence of cheating. It is also to be noted that long time has elapsed since the complaint was filed in 1987. It may also be indicated that although such FIRs were filed in 1987 and 1989, the Banks have not chosen to institute any case against the alleged erring officials despite allegations made against them in the FIRs. Considering that the investigations had not been completed till 1991 even though there was no impediment to complete the investigations and further investigations are still pending and also considering the fact that the claims of the Banks have been satisfied and the suits instituted by the Banks have been compromised on receiving payments, we do not think the said complaints should be pursued any further. In our view, proceeding further with the complaints will not be expedient. In the special facts of the case, it appears to us that the decision of the High Court in quashing the complaints does not warrant any interference under Article 136 of the Constitution. We, therefore, dismiss these appeals.

8. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

9. In the light of the judicial precedents referred to above, given the terms of compromise, placement of parties, and other factors peculiar to the case, the contents of the compromise deed and its objectives point towards its acceptance.

10. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, 2018 (4) Crimes 324, Hon'ble Supreme Court holds "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stand vitiated."

11. Considering the entire facts, compromise, and in the light of the above-mentioned judicial precedents, I believe that continuing these proceedings will not suffice any fruitful purpose whatsoever. In the facts and circumstances peculiar to this case, the Court invokes

the inherent jurisdiction under section 482 Cr.P.C. and quashes the FIR and all subsequent proceedings qua the petitioner(s). The bail bonds of the petitioner is accordingly discharged.

Petition allowed in the terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.07.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.