

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

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CRM-M-16689-2022

Date of Decision : **May 10, 2022**

MONU KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. K.S.Siwach, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.170 dated 16.7.2021, under Sections 379, 420, 511 IPC and Section 379-A IPC added later on and Section 379 IPC deleted, Police Station City Ratia, District Fatehabad based upon compromise (Annexure P-2) alongwith all other subsequent proceedings arising therefrom.

It has been submitted by the learned counsel for the petitioner that the allegations against the petitioner are pertaining to theft of an ATM card which ultimately was never used for withdrawing of the money and thereafter the matter has since been compromised between the petitioner and the complainant who is respondent No.2 in the present case vide Annexure P-2. He further submitted that since the matter has been compromised no useful purpose will be served if the further prosecution is carried on.

On the other hand, Mr. Naveen Singh Panwar, DAG,

Haryana has stated that he has received an advance copy of the petition and he has also gone through the same and has also sought instructions from the concerned IO. He submitted that the petitioner has not come to the Court with clean hands and has concealed material facts from this Court. He further submitted that during investigation, it was found that the petitioner after snatching the ATM cards had used cloning machine for the purpose of withdrawing of the money but he failed to do so and the cloning machine was recovered from him and he is in custody and the matter is pending for consideration of charges. He submitted that there is an active concealment of material facts by the petitioner. He further submitted that the petitioner is involved in five other similar cases of theft and the petitioner has not disclosed the same in the present petition and it is a case where the petitioner is a habitual offender and involved in such kind of offences of snatching which affects society at large and especially since the petitioner is involved in a number of cases and he did not disclose the same before this Court, the present petition is liable to be dismissed. While referring to the other five cases, the learned State counsel has given a list of the aforesaid cases which is as follows:-

1. FIR No.324 dated 24.12.2020 under Sections 379, 420 IPC, Police Station City Ratia;
2. FIR No.129 dated 11.6.2020 under Sections 379, 420 IPC, Police Station City Ratia;
3. FIR No.230 dated 15.9.2017 under Sections 411, 34 IPC, Police Station Nobalgarh, District Solan;
4. FIR No.147 dated 17.10.2017 under Sections 411, 34 IPC, Police Station Bhabna, District Kangra and;

5. FIR No.159 dated 17.10.2017 under Sections 420, 380, 34 IPC, Police Station Palampur, District Kangra.

I have heard the learned counsels for the parties.

The petitioner has filed the present petition seeking to invoke the extra ordinary jurisdiction of this Court under Section 482 of Cr.P.C. for the quashing of the FIR based upon compromise. It is settled law that while exercising powers under Section 482 Cr.P.C., the High Court has to exercise due care and caution and FIR even on the basis of compromise cannot be quashed in a casual and mechanical manner and each and every case has to be seen on its own facts and circumstances. The Hon'ble Supreme Court in **Gian Singh Versus State of Punjab and another 2013 (1) SCC (Crl.) 160**, it was held as follows:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder,

rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the

criminal proceeding."

The Hon'ble Supreme Court in **State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (Crl.) 706** has reiterated the same.

In the facts and circumstances of the present case, the petitioner is seeking quashing of FIR based upon compromise. As per the learned State counsel during investigation of the matter, cloning machine was recovered from the petitioner and the petitioner is a habitual offender and is involved in five more cases of similar nature of which description has been given by learned State counsel. There is no justification for the petitioner to have concealed these material facts from this Court with regard to the pendency of five cases of similar nature against him. Even otherwise also such an offence is grave in nature and affects large section of society and, therefore, this Court does not deem it fit and proper to exercise extra ordinary jurisdiction for quashing of FIR based upon compromise.

Therefore, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 10, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No