

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

...Respondents

3. As per the FIR which has been annexed as Annexure P-1 with the present petition, the allegations against the petitioners were that the petitioners along with other co-accused have cheated the complainant and some other persons for an amount of Rs.60,00,000/- and Rs.1,50,000/- for the purpose of procuring jobs in Food Department. As per the allegations in the FIR, the

petitioner No.1 namely Shri Niwas Gautam came to the complainant along

with his relative namely Jialal and asserted that he is having direct links and approach at H.No.12, Janpath and it is on the asking of Shri Ram Vilas Paswan, he has been appointed as Secretary. Both the aforesaid two persons namely Shri Niwas Gautam and Jialal made false promises and took them in faith that the aforesaid Shri Ram Vilas Paswan is Central Food Minister with Govt. of India and that he is his relative and has influence and, therefore, he can get them appointed in the Food Corporation of India. For the first time, both the accused persons took Rs.18,00,000/- from the complainant Santosh and Karambir resident of Narwana, District Jind and then the petitioner No.1 Shri Niwas Gautam said that he will give an account number and account holders are his known persons and the amount may be deposited in their account. Rs.60,00,000/- was taken by them, some amount in cash and some amount was deposited in different accounts of different persons, which has been stated in the FIR and as per the contents of the FIR, Rs.5,23,500/- was deposited in the banks in the account numbers which have been stated by the accused persons. Thereafter, Rs.22,00,000/- were taken in cash. It is further stated in the FIR that there are six children namely, Suman, Pawan, Karan, Bhawani Singh, Sumit and Manish, who were called at Delhi and they also had given Rs.25,000/- each in the name of medical and in this way, the accused persons had taken Rs.60,00,000/- in the name of service and Rs.1,50,000/- for medical. It is further stated in the FIR that the accused persons kept on giving assurance that the Hon'ble Minister is not having time, sometimes he is in the Cabinet meeting and thereafter they kept on buying time. Thereafter, the complainants became suspicious and went to the house of the aforesaid accused Jialal, his wife told that her husband has died in the accident and thereafter they went to meet petitioner No.1 Shri Niwas Gautam, who started making excuses. It is further alleged in the FIR that the aforesaid

accused Shri Niwas Gautam, petitioner No.1 also threatened the complainants that he will get involved all these six children in some false cases as he has links with higher-ups.

4. Learned counsel for the petitioners has submitted that now the matter has been compromised between the parties vide Annexure P-2 and the money has been paid back to the complainants and therefore, the present FIR may be quashed on the basis of compromise qua the petitioners.

5. On the other hand, learned State counsel has submitted that he has received an advance copy of the present petition and he has also got instructions from ASI Pawan Kumar. He submitted that firstly, there are total seven accused in the present case and the present petition has been filed only by three accused and similarly, the complaint was filed by two persons i.e. respondents No.2 and 3, who are parties in the present petition but as per the FIR, the money was also taken from six children and so far as they are concerned, they are not parties to the present petition and therefore, an FIR cannot be quashed partly in such like manner. Secondly, he submitted on merits that the nature of the allegations in the present case itself would disentitle the petitioners for seeking quashing of the present FIR on the basis of compromise. He submitted that lakhs of rupees have been taken allegedly by the petitioners and the other co-accused for getting the job in Food Corporation of India by stating that he is a Secretary to the Minister of Central Govt. He submitted that this case cannot be termed as a pure and simple financial dispute between the parties but it is a case which has high magnitude and affects the society at large. Furthermore, the mere fact that the money has been returned to the complainants after the registration of the FIR would not mean that it would become a ground for quashing of FIR based upon the compromise. After the investigation of the case, challan has already been

presented before the learned competent Court and charges have been framed against all the accused including the present petitioners. He has, therefore, vehemently opposed the quashing of FIR based upon the compromise.

6. I have heard the learned counsel for the parties.

7. The petitioners are seeking quashing of FIR based upon the compromise. The law with regard to quashing of FIR based upon the compromise is no longer '*res integra*' in view of the judgment of Hon'ble Supreme Court in **Gian Singh Vs. State of Punjab, 2012 (4) R.C.R. (Criminal) 543; State of Madhya Pradesh Vs. Laxmi Narayan, 2019 (2) R.C.R. (Criminal) 255** and a larger bench judgment of this Court in **Kulwinder Singh Vs. State of Punjab, 2007 (3) R.C.R. (Criminal) 1052**. The relevant portion of judgment in Laxmi Narayan (supra) is reproduced :-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under :

- i) that the power conferred under section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*
- ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. Such offences are not private in nature and have a serious impact on society;*
- iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public*

servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

- iv) *offences under section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove.*

- v) *While exercising the power under section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.*

8. It is therefore, clear that the powers under Section 482 of the Code of Criminal Procedure, 1973 can be exercised only in order to prevent the abuse of the process of law and in order to secure the ends of justice. In cases which are pure and simple contractual or financial matters or in cases involving matrimonial dispute etc. of such like nature, the High Court can always exercise its extraordinary jurisdiction under Section 482 of the Code of Criminal Procedure in order to secure the ends of justice. However, in the present case, this Court is of the view that considering the allegations in the present case, the quashing of the FIR based upon compromise would rather be an abuse of the process of law. The gravity and magnitude of the case would show that the offence is not only against one or two persons but against the society at large affecting number of people. Apart from the same, all the accused are not party in the present petition and similarly, the victims, six children, who are the affected persons are also not party to the present petition.

9. This Court is of the view that the subject matter of the present case falls in the category of serious and heinous offence. Consequently, finding no merit in the present petition, the same is hereby dismissed.

10. It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petitions.

(JASGURPREET SINGH PURI)
JUDGE

May 18, 2022
Manpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes