

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

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**CRM-M-33985-2022
Date of decision : 09.08.2022**

Jeewan Singh Aneja

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present :- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Ranveer Singh Arya, Additional AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 of the Cr.P.C. for seeking quashing of the proceedings against the petitioner arising out of FIR No.87, dated 05.06.2020 under Sections 406 and 420 of IPC and Section 24 of Immigartion Act registered at Police Station Nighdu, District Karnal on the basis of compromise (Annexure P-3) arrived at between the parties.

Learned counsel for the petitioner submitted that as per the allegations in the FIR the main accused was one Surender Kumar, who also filed a petition for quashing based upon compromise, but the same was dismissed by way of a detailed order by this Court dated 09.08.2021. He further submitted that so far as the present petitioner namely, Jeewan is concerned he had no role to play and he was falsely implicated in the present case and therefore, so far as the present petition is concerned since the matter has been compromised between the parties, no useful purpose will be

served in case the prosecution is carried on against the present petitioner.

I have heard the learned counsel for the petitioner.

The present FIR was lodged on the basis of a statement made by one complainant namely Bhupender Singh, resident of Nighdu, Karnal who is respondent No.2 in the present case by stating that he has got a passport and he is 7th class pass and he had a conversation with one Jeewan (petitioner) who was working as an agent in Karnal for sending the persons to America who told him that it will cost Rs.30 lakhs and he will also make him jump the wall of America and manage some work for him so that the complainant can earn Rs. 2 lakhs every month. The complainant thereafter, gave consent to the present petitioner namely Jeewan for going to America. On 16.05.2019, the petitioner namely Jeewan told him about the confirmation of his ticket to America and he came to his house and took Rs.1,50,000/- from him and on the same day he again came to his house by stating that his ticket has been confirmed from Delhi to Mexico for that night and the flight itself is on the same day and he took his clothes and articles and thereafter, the present petitioner namely Jeewan made him sit in the car and they reached Karnal. There he asked the complainant to sit in the car and that car took him to Delhi where he was told to meet another person who is the co-accused in the present case namely Surender Kumar. Thereafter, the complainant boarded the car of Surender Kumar co-accused on the saying of the present petitioner Jeewan and thereafter, Jeewan went back home. Thereafter, he went to Delhi and he was brought to a hotel in Pahadganj area where he kept his belongings and then approximately at 7:00 pm, Surender Kumar (co-accused) told him that he will have to cross the forest to enter America and therefore, an injection will be given to him so

that any snake bite may not harm him in the forest. Then he went to the doctor according to the saying of the co-accused Surender Kumar and the doctor took his passport from Surender Kumar and checked the same and gave the complainant an injection on the arm and the doctor did not tell him anything. After this, Surender Kumar brought him back to the hotel and after leaving him to the hotel, he told him to have his meals and said that he will be back by 10:00 pm with his ticket but he did not come. Thereafter, the complainant kept on waiting and again at 1:00 am the scheduled departure was cancelled and co-accused told him that he will arrange the ticket within one or two days and he thereafter stayed in the same hotel. Thereafter, on 27.05.2019, when co-accused Surender Kumar came back, he again asked him to get ready and thereafter, a taxi was arranged and the complainant reached the Delhi Airport, Terminal-III as the co-accused told him that his flight is at 1 am. Thereafter the complainant reached Mexico from Delhi where he stayed for 10 hours and he reached Hawana from Mexico, and then he reached Panama from Hawana and then from Panama he went to Quinto which falls in the Central America. When he came out from Quinto Airport, he received the recording of co-accused Surender Kumar on his telephone and the name of the hotel as well and he told him to arrange the taxi from outside to go to the hotel. Thereafter, the complainant went to the hotel as told by the co-accused and then he again went in a bus from Quinto to Turkaan and when he reached Turkaan by bus and searching for a hotel, a taxi driver came to him and showed him his photo in his mobile phone and also showed the recording of co-accused Surender Kumar. Thereafter, the complainant called to co-accused Surender Kumar and the present petitioner-Jeewan and told them that he had reached an old

lady's home at Tulkanpur and a taxi driver has left him there. Thereafter, many people met him there and he stayed in the hotel at Guwata Mala through the forests of Panama and he again talked to the present petitioner namely, Jeewan and he asked for the payment from the family members to give Rs.7 lakhs to the present petitioner namely, Jeewan. Then he reached to Mexico at someone's home and the present petitioner- Jeewan called him for the payment of the pending amount and another amount of Rs. 50 lakhs was paid. Thereafter, the local residents made him jump the wall and after walking for 15/20 minutes, the police had arrested him and he was confined in the jail of America from where he was sent back to India.

The FIR itself speaks volumes as to how the petitioner allegedly being an agent received a huge sum of money in connivance with the other co-accused namely, Surender Kumar and a man was sent illegally to America where he had to travel to different countries in illegal manner by scaling walls and going through the forests. This Court by way of a detailed order had dismissed the quashing petition based upon compromise of the co-accused on 09.08.2021. Now the present petitioner has filed the petition on the basis of compromise. The only argument raised by the learned counsel for the petitioner was that the other co-accused was involved in some other cases whereas the present petitioner is not involved in any case. This Court does not agree with the contentions raised by the learned counsel for the petitioner as the mere fact that the petitioner is not involved in any other case does not entitle him for the quashing of the FIR based upon compromise.

The law with regard to the quashing of the FIR based upon compromise is now well settled. The Hon'ble Supreme Court in **Parbatbhai**

Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. vs The State Of Gujarat and another 2017 (9) SCC 641, has laid down broad principles which are required to be followed while considering quashing of FIR based upon compromise. The Hon'ble Supreme Court has observed that the High Court preserves inherent powers to prevent an abuse of the process of any court or to secure the ends of justice. In forming an opinion as to whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482 Cr.P.C, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power. The High Court has wide ambit and plenty of powers under Section 482 Cr.P.C. which have to be exercised to secure the ends of justice or to prevent an abuse of the process of any court and also due regard has to be given to the nature and gravity of the offence. In **State of Madhya Pradesh Vs. Laxmi Narain and others, 2019 (5) SC 688**, the Hon'ble Supreme Court again observed that while exercising powers under Section 482 Cr.P.C. quashing of criminal proceedings even in respect of non-compoundable offences or offences which are private in nature, and do not have any serious impact on the society, the High Court is required to consider the antecedents of the accused, conduct of the accused and how he had managed to enter into compromise with the complainant. Apart from the above stated parameters, the public interest and social impact upon the society is also to be considered.

In the present case the gravity, magnitude and the nature of the allegations against the present petitioner and particularly modus operandi adopted by the petitioner and the other co-accused has a serious and adverse impact upon the society and involves large public interest. This Court is of

the view that the subject matter of the present case falls within the category of a serious offence whereby the allegations were that the petitioner along with the other persons has taken lakhs of rupees from the complainant and he was made to travel to various countries by scaling the walls and going through the forests and illegally going to America from where he was deported. In view of such kind of allegations against the petitioner, this Court is of the view that such kind of FIR cannot be quashed on the basis of compromise.

Therefore, this Court is of the view that it does not deem it fit and proper to exercise its extra ordinary power under Section 482 of the Code of Criminal Procedure for quashing of the FIR. Rather this Court is of the view that in case, this Court quashes such kind of FIR even based upon compromise, then rather it will amount to abuse of the process of law.

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

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

09.08.2022

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Whether speaking/reasoned	Yes
Whether Reportable :	No