

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

CRM-M-37761-2019

Date of Decision:-18.05.2022

Rajan Atreja & Anr.

.....Petitioners.

Versus

State of Haryana & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ankit Aggarwal, Advocate for
Mr. Pankaj Bali, Advocate for Petitioners.

Mr. Praveen Kumar Aggarwal, DAG Haryana.

Mr. Davinder Kumar, Advocate for respondent no.2.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for quashing of FIR No.505 dated 27.06.2014 (Annexure P-1) under Sections 420, 406, 120-B IPC registered at Police Station Civil Lines Karnal and all consequential proceedings arising therefrom on the basis of compromise dated 08.01.2019 (Annexure P-2) arrived at between the petitioners and respondent nos.2 & 3.

Vide order dated 21.11.2019 this Court had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in terms of certain parameters given in the aforesaid order dated 21.11.2019 with regard to the compromise dated 08.01.2019 (Annexure P-2).

In terms of the order dated 21.11.2019 passed by this Court

parties have appeared before the court of Sh. Harleen Pal Singh, Judicial Magistrate Ist Class, Karnal and as per his report dated 27.12.2019 submitted to this Court, both the parties have got recorded their respective statements in Court. However, the petitioners are said to be proclaimed persons vide order dated 23.08.2016.

A perusal of the aforesaid report would show that the parties have effected a genuine compromise without there being any pressure, coercion or undue influence. In view of the compromise there is a remote possibility of the complainant coming forward to support the prosecution case. The powers under Section 482 Cr.PC can be exercised in such like situation in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be fully in consonance with the direction issued by the Court in ***Kulwinder Singh & Ors. Vs. State of Punjab 2007(3) RCR (Criminal) 1052*** and ***Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543***.

With regard to the fact that the petitioners have been declared proclaimed persons, the Counsel for the petitioner also submits that where some of the accused have faced trial and have been acquitted, other accused who were declared proclaimed offenders have sought the quashing of the Fir and the FIRs have been quashed by this Court as also by Hon'ble Apex Court. Reliance is placed on the judgment of this Court in ***Sudo Mandal @ Diwarak Mandal Vs. State of Punjab 2011(2) RCR (Criminal) 453*** in which case this Court held that where some of the accused had been acquitted, the other accused who did not face trial and were absconding and had been declared proclaimed offenders were entitled to the quashing of the

FIR when there was no possibility of conviction as in the case of co-accused a judgment of acquittal had been recorded and evidence against each accused was the same. An *SLP (Cr.) No.7909 of 2015* titled as *The State of Punjab Vs. Sudo Mandal @ Diwarak Mandal* Decided on **25.01.2019** was preferred against the said judgment and it was dismissed. He further contends that the Hon'ble Supreme Court in *Vishwas Bhandari Vs. State of Punjab & Anr. (2021)2 Supreme Court Cases 605* held that where the co-accused have been acquitted and the FIR did not reveal that the other accused who has been declared a proclaimed offender had committed any offence, the FIR qua the said accused was quashed. Similarly in the case of *Jaswant Singh Vs. State of Punjab & Anr. 2021 SCC Online SC 1007* two accused were chargesheeted to face trial and during the course of trial an application under Section 319 Cr.PC had been moved to summon one accused who did not appear and accordingly was declared proclaimed offender. In the meantime, a compromise was effected between the complainant and two chargesheeted accused. On the basis of the compromise the proceedings qua the two chargesheeted accused culminated but the proceedings remained alive qua the additional accused who had been summoned under Section 319 Cr.PC. The said accused who was a proclaimed offender filed a petition in the High Court for quashing for the proceedings qua him. The High Court stayed the proceedings and directed the said accused to surrender before the trial Court and he was ordered to be released on interim bail to the satisfaction of the trial Court. However, the High Court declined to quash the proceedings qua him on the ground that he was a proclaimed offender and there had been specific allegations levelled against him.

The Hon'ble Supreme Court while quashing the proceedings held that the case was amongst those fittest cases where the High Court ought to have exercised its powers under Section 482 Cr.PC and ought to have secured the ends of justice by closing the proceedings against the said accused. Reference was made to the judgment in **S.W. Planitkar Vs. State of Bihar 2001(4) RCR (Criminal) 572** wherein it was held that exercise of inherent power is available to the High Court to given effect to any order in Cr.PC or to prevent abuse of process of any court or otherwise to secure the ends of justice.

Keeping in view the various judgments quoted above the further proceedings ought to be quashed where a compromise has been affected between the parties even though the petitioners were proclaimed persons.

In view of the abovesaid discussion and report of the learned Judicial Magistrate Ist Class, Karnal accompanied by statements of both the parties, the FIR No.505 dated 27.06.2014 (Annexure **P-1**) under Sections 420, 406, 120-B IPC registered at Police Station Civil Lines Karnal and all consequential proceedings arising therefrom are hereby quashed.

The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 18, 2022
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No