

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-50976-2021 (O & M)****Date of decision: 18.05.2022**

Tek Chand Bhalla and ors.

.... Petitioners

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Bhriagu Dutt Sharma, Advocate, for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C for quashing of an FIR No.218 dated 23.09.2021 (Annexure P-1) registered with Police Station Division No.8, Jalandhar under Sections 406, 465, 467, 468, 471 and 120-B IPC on the basis of compromise dated 22.11.2021 (Annexure P-2).

2. The learned counsel for the petitioners submits that since it is a private dispute between the parties and they have effected a compromise, no useful purpose would be served to continue the proceedings against the petitioners in furtherance of the registration of the FIR.

3. The learned counsel for the State has filed a reply dated 02.04.2022, which is already on record, stating therein that a very serious offence has been committed wherein the complainant has been cheated by the petitioners. Reference has also been made to the FIR, as per which, a complaint has also been filed against the petitioners before the authorities

under the GST Act, and therefore, the FIR should not be quashed as the

petitioners are likely to have committed offences against the State and further investigation would reveal if an offence under the GST Act is made out or not. Therefore, the present FIR cannot be called a private dispute between the parties which can be quashed on the basis of a compromise.

4. I have heard the learned counsel for both the parties.

5. Admittedly, the petitioners and the complainant have entered into a compromise. However, a perusal of the FIR would reveal that a complaint has been submitted before the GST authorities against the petitioners. The police proceedings would also reveal that M/s Jain Trading Company-complainant had submitted a complaint against M/s Suraj Rubber Industries regarding questioned bills/cheques returned to the Commissioner, Central GST Commissionerate, Jalandhar on 07.06.2019. As per the police proceedings, the status report of this complaint had been obtained by M/s Jain Trading Company from the GST Department, which has stated that M/s Suraj Rubber Industries of which the petitioners are the partners have failed to appear before the GST Department despite repeated reminders. Certain other allegations have been levelled against the petitioners' firm regarding GST violations.

6. The kind of cases which can be quashed on the basis of compromise have been enumerated in a number of judgments of the Apex Court. Some of which are reproduced below:-

The Hon'ble Supreme Court of India in "***State of Madhya Pradesh versus Laxmi Narayan and others, 2019 AIR (Supreme Court) 1296***", held as under:-

"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.

In “*Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. Versus State of Gujarat and Anr., 2017(4) R.C.R.(Criminal) 523* , the Hon’ble Supreme Court of India has held as under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is

founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and

(ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

16. Bearing in mind the above principles which have been laid down in the decisions of this Court, we are of the view that the High Court was justified in declining to entertain the application for quashing the First Information Report in the exercise of its inherent jurisdiction.

The High Court has adverted to two significant circumstances. Each of them has a bearing on whether the exercise of the jurisdiction under Section 482 to quash the FIR would subserve or secure the ends of justice or prevent an abuse of the process of the court. The first is that the appellants were absconding and warrants had been issued against them under section 70 of the Code of Criminal Procedure, 1973. The second is that the appellants have criminal antecedents, reflected in the chart which has been extracted in the earlier part of this judgment. The High Court adverted to the modus operandi which had been followed by the appellants in grabbing valuable parcels of land and noted that in the past as well, they were alleged to have been connected with such nefarious activities by opening bogus bank accounts. It was in this view of the matter that the High Court observed that in a case involving extortion, forgery and conspiracy where all the appellants were acting as a team, it was not in the interest of society to quash the FIR on the ground that a settlement had been arrived at with the complainant. We agree with the view of the High Court. The present case, as the allegations in the FIR would demonstrate, is not merely one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilization of fabricated documents to effectuate transfers of title before the registering authorities and the deprivation of the complainant of his interest in land on the basis of a fabricated power of attorney. If the allegations in the FIR are construed as they stand, it is evident that they implicate serious offences having a bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. In these circumstances, the High Court was eminently justified in declining to quash the FIR which had been registered under sections 384, 467, 468, 471, 120B and 506(2) of the Penal Code.

7. A perusal of the aforementioned judgments would show that offence under special acts or offence involving financial and economic well

being of the State cannot be quashed on the basis of a compromise.

In the present case, the offence pertains not only to *inter se* dispute between the parties but there is an element of possible evasion of GST. As per the judgments passed in the cases of '*State of Madhya Pradesh (supra)*' and '*Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. (supra)*', the power to quash the FIR on the basis of compromise is not to be exercised for offences under the Special Statutes like the Prevention of Corruption Act, etc. In the present case, the investigation might reveal the commission of an offence under the GST Act.

8. In view of the above, the present petition is dismissed.

9. However, during investigation, if it is found that no offence under the provisions of the GST Act is made out, the petitioners would be at liberty to approach this Court once again by filing a petition seeking quashing of the FIR on the basis of compromise.

(JASJIT SINGH BEDI)
JUDGE

May 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No