

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

**CRM-M-53138-2021
Date of Decision: 4th May, 2022**

Jatinder Pal

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rishabh Gupta, Advocate for the petitioner.

Mr. R.S.Thind, Deputy Advocate General, Punjab.

Ms. Harpreet Kaur, Advocate for respondent No.2.

AVNEESH JHINGAN, J (Oral):

This petition is filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.0028 dated 26.02.2016 under Sections 406 and 420 IPC registered at Police Station Division 1, District Police Commissionerate Jalandhar and all subsequent proceedings, on basis of compromise. Further prayer is for quashing of order dated 28.7.2016 declaring the petitioner as proclaimed person.

The brief facts are that the FIR was lodged at the instance of Mahinder Kumar alleging that the accused (petitioner) ostensibly received money on pretext of sending the complainant abroad. Neither the needful was done nor the money was returned.

The complainant has died during the pendency of the proceedings and is represented through his LR.

On 28.2.2022, the operation of the order declaring the

petitioner as proclaimed person was stayed and the parties were directed to appear before the Illaqa Magistrate/trial court for getting their statements recorded with regard to compromise.

As per the report dated 27.4.2022, the compromise between the petitioner and wife of the complainant (the legal heir of the complainant) is voluntarily and genuine and that the petitioner was declared proclaimed person on 28.7.2016.

Counsel for the petitioner submits that petitioner had gone abroad. Proclamation proceedings were initiated when he was not in India.

Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, has held:-

“There is no statutory bar in Cr.P.C. which affects inherent power of this Court under Section 482. The power of quashing is not limited to matrimonial cases alone.”

The Supreme Court in ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017 AIR (SC) 4843*** laid down the broad principles governing the exercises of powers of quashing of FIR. It was held that the power under Section 482 Cr.P.C. is to be exercised by the High Court to secure the ends of justice, to prevent abuse of any process of law and in cases where in view of the compromise the possibility of conviction is remote and continuation of proceeding will cause oppression and prejudice.

The present dispute has a pre dominant tone and tenor of commercial transaction. The parties have settled the differences and decided not to litigate any further. There are bleak chances of conviction. No useful

purpose would be served by continuing with the trial.

Considering the conduct of the petitioner, the above mentioned FIR, the order declaring the petitioner as proclaimed person and all consequential proceedings arising therefrom are quashed subject to payment of cost of Rs.30,000/-, to be deposited in Poor Patients Welfare Fund, PGIMER, Sector-12, Chandigarh.

Let the cost be deposited within three weeks from today. In case of failure of depositing cost for whatsoever reason, the order passed today shall be deemed to be recalled without reference to the Court. Let the receipt of deposit be produced with the Registrar of this Court within four weeks from today.

The petition is disposed of.

[AVNEESH JHINGAN]
JUDGE

4th May, 2022
anuradha

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No