

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

CRM-M-7450-2022  
Decided on : 13.01.2023

Yatin @ Mithu and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present :    Mr. Pawan Attri, Advocate  
                  for the petitioners.

Mr. Karan Sharma, DAG, Haryana.

Mr. Sachin Luthra, Advocate for  
Mr. Nitin Kumar Sharma, Advocate  
for respondent No.2.

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**Manjari Nehru Kaul, J.(Oral)**

The instant petition has been filed under Section 482 Cr.PC for quashing FIR No.44 dated 07.02.2022 for offences under Sections 387, 452, 506 and 34 IPC and Section 25 of the Arms Act registered at Police Station City Pehowa, District Kurukshetra (Annexure P-1), and all consequential proceedings arising therefrom, on the basis of compromise dated 14.02.2022 (Annexure P-2).

Learned counsel for the petitioners submits that subsequent to the lodging of the FIR in question, with the intervention of the panchayat, the parties had amicably resolved their dispute and decided to put to rest the criminal case pending between them. Hence, continuation of criminal proceedings would be a futile exercise.

Learned counsel for respondent No.2-complainant does not dispute the submissions made by the counsel for the petitioners and also does not oppose the prayer for quashing of the FIR in question on the basis of the compromise effected between the parties.

Learned State counsel has, however opposed the prayer made by the counsel for the petitioners for quashing of the FIR in question. Learned State counsel has argued that in the FIR in question both the petitioners were named alongwith co-accused Ram Phal, who has, however, not been impleaded as a party in the petition and with whom admittedly no compromise has been effected. Learned State counsel still further submits that there are serious allegations against the petitioners as well as co-accused Ram Phal of extortion and looting the complainant after entering his office.

Heard learned counsel for the parties and perused the relevant material available on record.

Vide order dated 22.02.2022 passed by a Coordinate Bench of this Court, the parties were directed to appear before the learned trial Court/Illaq Magistrate on 02.03.2022 to get their statements recorded regarding the compromise arrived at between them.

Report dated 08.03.2022 along with the statements of parties in original has since been received from the learned JMIC, Pehowa in pursuance of the direction of this Court.

As per the report, the FIR in question was registered at the instance of respondent No.2 Parvesh Kumar against the petitioners Yatin @

Mithu, Parvinder Singh @ Gaga and one other person namely Ram Phal s/o Nakli Ram, who is not a party to the compromise. Not only this, as per the report received, the petitioners have a criminal past. Petitioner No.1 is shown to be involved in as many as 20 criminal cases whereas petitioner No.2 is involved in 6 criminal cases. This Court cannot lose sight of the above facts wherein the petitioners come across as historysheeters.

Once the wheels of criminal proceedings are set in motion after the lodging of an FIR, especially in cases of non-compoundable offences, it becomes a matter between the State and the accused. Prosecution of an accused falls within the domain of the State as the latter has a duty to maintain law and order in the society. The inherent powers of this Court under Section 482 Cr.PC cannot and should not be resorted to, in a routine manner for thwarting an investigation and prosecution launched by the State. The Hon'ble Supreme Court has held in some decisions that in an appropriate case the powers conferred under Section 482 of the Code can be exercised to quash criminal proceedings in respect of non-compoundable offences to secure the ends of justice, or to prevent the abuse of process of any Court. It obviously follows that the facts of each case have to be scrutinized and a decision arrived at thereafter.

The power conferred under Section 482 of the Code cannot be exercised in cases where the offences have a serious impact on the society therefore, criminal proceedings in such cases should not be quashed merely because the parties have compromised the matter. However, criminal proceedings can be quashed where the parties have arrived at an amicable

settlement in cases of non-compoundable offences having a predominantly civil flavour or are private in nature and do not seriously impact the society.

It goes without saying that even in cases of quashing of an FIR/complaint on the basis of compromise, the Court is expected to remain vigilant to ensure that the object of Section 482 Cr.PC which is to prevent the abuse of the process of law or otherwise to secure the ends of justice, is not defeated by mechanically giving effect to a compromise, which if on close scrutiny does not inspire confidence.

As per the law laid down by Hon'ble Supreme Court in *State of Madhya Pradesh vs. Laxmi Narayan, 2019(5) SCC 688*, a Court must take into account the antecedents of the accused even if the offences alleged may not be grave in nature. The Apex Court has also observed that even if a compromise may have been effected between the parties, the circumstances leading to the compromise, the conduct of the accused like whether the accused was absconding and why he was absconding and for how long, and still further how he managed to enter into a compromise with the complainant are also relevant factors to be taken into consideration while exercising the inherent jurisdiction under Section 482 Cr.PC for quashing of an FIR.

Adverting to the case in hand, as many as three accused were named in the FIR in question. All the three accused i.e. petitioner No.1 – Yatin @ Mithu, petitioner No.2 Parvinder Singh @ Gaga and the third accused Ram Phal were attributed identical roles of brandishing their firearms and thereafter looting the complainant at gun point. The present

petitioners have effected a compromise with the complainant-respondent No.2 to the exclusion of the third accused Ram Phal, which is apparent from a perusal of compromise (Annexure P-2) as the said accused Ram Phal is not a party to the compromise. It does not sit well with the prudence of this Court that when all the three accused including the petitioners were attributed almost identical roles in the crime in question and also imputed common intention under Section 34 IPC, then how could one out of the three accused be left to face trial in respect of a similar role qua which compromise has taken place between respondent No.2 and the petitioners-accused. All this also needs to be appreciated in the light of submissions made by the State counsel, who on instructions has apprised the Court that both the petitioners are men with criminal antecedents and as such, the possibility of them having pressurized the complainant to enter into a compromise with them cannot be ruled out.

This Court has no hesitation in observing that a danger indeed runs in quashing such FIRs including partial quashing on the basis of a compromise where all the accused have been attributed identical roles, and some of the accused have been able to enter into a compromise with the complainant by either pressurizing him or exercising undue influence or coercion. It cannot be over emphasized that there could be cases where the accused/offenders holding influential positions or being in a sound financial position would go scot free, and on the other hand, an accused, who may not be able to influence the complainant or induce him to effect a compromise would be left to face trial.

Another scenario could be and which has been coming to the notice of this Court is that an accused, who has been attributed the main role in the crime in question, has compromised the matter with the complainant, whereas the other accused named in the FIR and in some cases not even named but nominated pursuant to a disclosure statement and still further, attributed only minor role(s) in the crime in question had been left to face trial on account of no compromise effected between him/them and the complainant. Without doubt, this would run contrary to securing the ends of justice and the spirit of compromise, and thereby rendering the social and legal purpose behind Section 482 Cr.PC nugatory.

Hon'ble Supreme Court in certain exceptional cases has partially quashed the FIR and other criminal proceedings with respect to some of the accused on the basis of a compromise effected between them and the complainant, to the exclusion of the other accused with whom no compromise was effected. However, it was done in the peculiar facts and circumstances of those cases and no general rule to that effect was laid down by the Hon'ble Supreme Court while doing so. There can also be no general principle that partial quashing of FIR or other criminal proceedings is not permitted at all. Each criminal case has its own distinct facts and it is only after considering all the relevant facts and circumstances that an appropriate decision can be arrived at as to whether or not the FIR and consequential criminal proceedings should be quashed partially. Every law derives its legitimacy from justice, and justice should be the end product. The power under Section 482 Cr.PC has to be exercised with

circumspection and restraint, ever mindful of the social impact of such exercise of power.

As a sequel to the above, this Court does not deem it appropriate to invoke its inherent powers vested under Section 482 Cr.PC for partially quashing the FIR in question qua the petitioners. Accordingly, the present petition stands dismissed.

13.01.2023  
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(MANJARI NEHRU KAUL)  
JUDGE

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| Whether speaking/reasoned: | Yes |
| Whether reportable :       | Yes |