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

**CRM-M-13650-2021 (O&M)
Date of decision : 09.11.2023**

Sonu Dhanda and another

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gagandeep Singh, Advocate,
for the petitioners.

Mr. Ashok S. Chaudhry, Addl.A.G., Haryana.

Mr. Sunny Kumar, Advocate,
for Mr. Nonish Kumar, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.0102 dated 24.01.2019, under Sections 120-B, 406 & 420 of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station Karnal Sadar, along with all consequential proceedings arising therefrom, on the basis of compromise dated 01.03.2021 (P-2).

2. Above FIR was registered at the instance of Parminder Singh-respondent No.2 and translated version of the same reads as under:-

"The contents of copy of Complaint are as ensuing. To, Hon'ble Superintendent of Police, Karnal. Subject: Complaint for taking legal action against 1. Sonu Dhanda, 2. Naresh Dhanda, residents of village Kultaran, 3. Raghubir alias Kala, resident of Manas, 4. Jitender alias Kala, resident of village Pai, 5. Rajesh

alias K.D. Baba, 6. Sakshi, residents of Ambala. Sir, the Applicant submits as under: 1. That the applicant is a peace-loving and law abiding citizen and is permanent resident of Panchkula and runs boutique in Panchkula and also does the work of property dealer. 2. That in April, 2018, the applicant had met accused no.3 Raghubir in Panchkula itself, who told that he does the work of gravel crushing at Panchkula and he has business of Cable TV at Karnal and now he has started work of importing and exporting gold after getting prepared the license and he further told that there is enough profit in this work because we import gold directly from abroad and since there is no middleman in between, we receive gold at a much cheaper price and while alluring the applicant, he said not to worry and in this way, while coming to the applicant again and again, he started alluring for Investing money in this work and started saying that we will give 1 kg of gold for Rs.27 lacs and you will get benefit of Rs.3-4 lacs only on the order of 1 kg of gold. You cannot earn Rs.3-4 lacs in one month in any work. Therefore, the applicant got influenced by the words of the accused upon his making pressure time and again and the applicant gave Rs.27 lacs to accused no.3 and accused no.3 went from there after taking money by saying that the gold will be given in one month. At that time, there was one more person with him, who can be identified by the applicant through his appearance. 3. That on 20.05.2018, accused no.3 came to the applicant in his Bolero Car No.HR08Q2484 and told that you come with me, your material has reached, but we have to go to Kaithal, you will be given gold there. On this, the applicant alongwith accused no.3, in his car bearing no.HR08Q2484 reached at a house in one colony near Chhotu Ram Chowk at Karnal Road in Kaithal, where accused no.4 was present there, who told her mother to bring one gold plate from inside and gave the same to the applicant. After getting delivered one gold plate to the applicant, accused no.3 brought the applicant in a house at Karnal and started saying that in case you wish to sell the same, then I will get your gold sold. Upon receiving the response of applicant in affirmation, he made a phone call to someone and told to bring Vaidh Sahib as one kg gold of sir has to be sold. After around half an hour from then, accused no.2 and 3 were talking with Vaidh Sahib and the gold plate was given to him after taking the same from the applicant. After around 1 - 1.5 hours from then, that person came back and

gave Rs.31,50,000/- to the applicant. Thereafter, accused no.3 left the applicant back to his home at Panchkula. Next date in the morning, accused nos.2 and 3 again came to the applicant and again started alluring to invest money and make profits, on which, the applicant got ready. In this way, accused no.2, 3 and 4 gave 1 kg - 1 kg gold to the applicant three times and after getting sold the same themselves, money was handed over to the applicant. 4. That in August, 2018, accused nos.3 and 4 again came to the applicant and started saying that till when you will play with 1-1 kg gold, you order 5-10 gold collectively, we will also enjoy in doing the work then and you too. However, when the applicant said that it will be difficult to arrange this much amount of money, then the accused started saying that we will arrange your meeting with our head and the rate will be got little reduced, you need not to worry, money will also be arranged. You can demand money from friends, some amount can be taken from the relatives, this arrangement is for one month only, big profit will be made in one month only. You yourself have seen this fact three times earlier, there is no foul play in the same, this is a number one work. After hearing these talks, the applicant came under the influence and accused no.3 and 4 brought the applicant to Karnal and arranged his meeting with accused no.1 and 5 at Vivan Hotel. That the accused no.1 and 5 were wearing gold rings and chain etc. They had come in new white coloured Fortuner Car bearing temporary number and were looking rich by status. Accused no.1 and 5 tempted the applicant by saying that if you order 10 kg material, then we will give you the material at the rate of Rs.22 lacs per kg within 10-12 days. On this, the applicant fell under the influence of talks made by the accused persons and he demanded time of 5-7 days for arranging the funds. Thereupon, the applicant reached at Panchkula and after arranging money from his friends and relatives, he contacted the accused Raghbir and told him that he has Rs.1,30,00,000/-. On this, he told that the rate was fixed in as per weight of 10 kg. In case the money is deficit, then I will have to talk with Sonu. Thereafter, he talked with accused no.1 and 5 separately and came after sometime and told that I have talked, you will get the same rate with less money, but you make arrangement of Rs.2 lacs more so that calculation of 6 kg can be done straightly and told to reach Karnal tomorrow with money. Therefore, on the calling of the accused, after reaching Karnal on

30-08-2018, Rs.1,32,00,000/- were given to accused nos.1 to 5, out of which Rs.2 lacs had been arranged from one of his friends at Karnal and in the presence of him only, all this money was handed over to the accused persons and at that time, accused no.2, 3 and 4 were also present there. On this, all the accused persons gave assurance to the applicant that you will be given your 6 kg material within 10/12 days. However, even after the passage of 15 days, when accused did not contact the applicant, then the applicant talked with accused no.3 Raghbir and he started dillydallying by saying that some tension is going on, you need not worry, your work will be undertaken very soon and in this way, accused dillydallied the matter and 2-3 months passed away. However, in December, 2018, when the applicant gave threat to accused no.3 to either return my money otherwise complaint will be made against you to the police, then on this, accused no.2 and 3 brought the applicant at the house of accused no.5 in a colony at Narayangarh Road in Ambala, where accused no.5 was present there and he let accused no.6 meet the applicant by saying that she is my wife Sakshi, you need not worry, your work will be undertaken in 2/4 days. Thereafter, accused no.3 asked the applicant to take delivery of the material after reaching Karnal. After four days, when the applicant reached at the house at Karnal, as told by the accused persons, then accused no.6 was already present there, who told the applicant that your material is about to reach within 10-15 minutes, you wait. That after around 20 minutes, accused no.1 to 5 reached there and immediately on their arrival, accused no.6 tore her clothes and started making hue and cry and started saying to accused nos.1 to 5 that he was molesting her. On this, accused nos.1 to 5 started giving fist blows and slaps to the applicant and all the accused persons gave threat to the applicant to run away from there and in case you demand money from us or try to make complaint anywhere, then the case of rape will be got registered against you. During this, accused no.1 also recorded the video of the whole incident wherein accused no.6 was tearing her clothes and while making drama of hue and cry, she was leveling false allegations against me. That after this incident and under the fear of threats given by the accused persons, the applicant sat at his home quietly. 5. That now the applicant has come to know from the newspapers and his friends that there is gang of above mentioned accused persons, who have also committed

cheating with other persons in this way and many cases have been registered against them. Therefore, it is requested to you that keeping in view the above mentioned facts, strict legal action be taken against the accused persons and the money of the applicant be got returned to him and life and property of the applicant be saved. I will be highly obliged to you. Kaithal / 22.01.2019, applicant - Parminder Singh Sd/- Parminder Singh. Today at Police Station: - This time, it is entered that I/SI Tejpal am present at the police station that one complaint written by Parminder Singh son of Mahender Singh, resident of Panchkula was received at the police station. That from the contents of the complaint, offences under Sections 420, 406, 120-B IPC have been found to be committed and after registration of FIR No.102 dated 24-01-2019 under Sections 420, 406, 120-B IPC at Police Station Sadar, Karnal, copy of police file alongwith original complaint will be handed over to Head Constable Sandeep 1394 for conducting investigation. Copies of the FIR are being sent through post to the Illaqa Magistrate and higher officials.”

3. In compliance of the order dated 04.10.2023, passed by this Court, an affidavit dated 06.11.2023 of Mr. Shashank Kumar Sawan, IPS, Superintendent of Police, Karnal, has been filed and same is taken on record. Copy thereof supplied to the other side.

Registry to do the needful.

4. Learned counsel for the petitioners contends that matter has been amicably settled between the parties, i.e. petitioners as well as complainant-respondent No.2; therefore, FIR in question along with all consequential proceedings be quashed and set aside.

In support of the above contention, learned counsel has relied upon the order dated 07.02.2023, passed by Coordinate Bench, whereby, CRM-M-8915-2023 & other connected petitions were

allowed resulting into quashing of another FIR against the present petitioners and one Dev Sharma, @ Sandeep.

5. *Per contra*, learned State counsel, while opposing the prayer of petitioners, submitted that after investigation of the matter, report under Section 173 of the Cr.P.C. has already been submitted before the Court of competent jurisdiction on different dates, i.e. 02.04.2019, 15.06.2019, 26.07.2019, 08.04.2021, 19.07.2021, respectively. Even, the charges against all the accused (except petitioner No.1-Sonu Dhanda) have also been framed by learned Judicial Magistrate First Class, Karnal (for short, 'JMFC') on 28.03.2023; and now the trial is pending for prosecution evidence on 01.12.2023. Also contended that despite arrest warrants of petitioner No.1-Sonu Dhanda, he did not come forward to join the proceedings and ultimately, declared as a 'proclaimed person' by learned JMFC, vide order dated 11.07.2022. Lastly submitted that petitioners are facing number of criminal cases in the State of Haryana; hence, present petition be dismissed with costs.

6. On the other hand, learned counsel for the complainant acknowledged the factum of compromise and submitted that he has no objection in case impugned FIR and consequential proceedings are quashed.

7. Heard learned counsel for the parties and perused the records shown by learned State counsel.

8. Paper-book reveals that Co-ordinate Bench, while issuing notice of motion on 27.07.2022, passed the following order:-

“Prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.0102 dated 24.1.2019 registered under Sections , 120-B, 406, 420 IPC at Police Station Sadar Karnal, District Karnal on the basis of compromise.

Notice of motion.

At this stage, Mr. Arjun Dhingra, Advocate, appearing for Mr. Nonish Kumar, Advocate accepts notice on behalf of the complainant/respondent No.2. He has admitted the correctness of compromise and stated that he has no objection if this petition is allowed. He undertakes to file power of attorney in the Registry within four weeks.

On the asking of this Court, Mr. Naveen Kumar Sheoran, DAG, Haryana accepts notice on behalf of the State. He does not wish to file any reply as the parties are stated to have effected the compromise.

So, the parties are directed to appear before the learned trial court/Illaqa Magistrate on 18.10.2022 or any other date convenient to the trial Court/Illaqa Magistrate and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaqa Magistrate, is directed to send the same along with his report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

To come up on 18.1.2023 for awaiting the report.

A copy of this order be sent to the learned trial Court/Illaqa Magistrate, through electronic mode, for compliance.”

9. In pursuance of the aforesaid order, statements of parties were recorded by learned JMIC and report dated 12.01.2023 was received in this regard. For reference, operative part of the report reads as under:-

*“In compliance of the said order, the complainant Parminder Singh as well as accused Naresh Dhanda appeared before the Court on 12.01.2023. **However, accused Sonu Dhanda did not appear before the court despite notice.** It appears that he*

did not appear before the court intentionally as he has already been declared Proclaimed Person in this case.”

(Emphasis supplied)

9.1 Again, on 18.01.2023, the Coordinate Bench passed the following order:-

“Report of the Court concerned is received, as per which, petitioner No.1 had not appeared to get record his statement. Faced with this situation, counsel for the petitioner made prayer that one more opportunity be granted to petitioner No.1 to do the needful.

Now, petitioner No.1 is hereby directed to appear before the Court concerned for getting record his statement on 6.2.2023 or any other date convenient to the said Court and the Court concerned is directed to submit its report in compliance of previous order dated 27.7.2022 by the next date of hearing.

Now be listed on 21.3.2023.”

9.2 In terms of the aforesaid order, again report dated 15.03.2023 was received from learned JMIC and relevant part of the same reads as under: -

“2. It is respectfully submitted that on 06.02.2023 accused Sonu Dhanda did not appear before the court and therefore notice was issued to him to appear before the Court on 15.03.2023. On 15.03.2023, also accused Sonu Dhanda failed to appear before the court. Notice issued to accused Sonu Dhanda was received back with report that accused does not visit his village at Kultaran and his whereabouts are not known to anyone....”

10. Both the petitioners have approached this Court for quashing of the impugned FIR along with all consequential proceedings arising therefrom, on the strength of compromise effected between the parties, i.e. petitioners as well as respondent No.2-complainant.

11. From perusal of two separate reports of learned JMIC (*supra*), it is clearly discernible that despite specific directions and availing sufficient opportunities, petitioner No.1-Sonu Dhanda did not appear for recording his statement. It has also come on record that aforesaid Sonu Dhanda has already been declared as a proclaimed person by the Court of competent jurisdiction, yet he is successfully evading the process of law.

Thus, in such a situation, there is no hesitation to observe that petitioner No.1-Sonu Dhanda has no respect for the rule of law; rather he is trying to make the judicial proceedings as a mockery.

12. Apart that, from perusal of the affidavit dated 06.11.2023 (*supra*), it is quite evident that both the petitioners are facing various criminal cases; and for reference, para 5 of the affidavit is extracted as under:-

“5. That from the perusal of record of police station Sadar Kaithal, Inter-Operable Criminal Justice System (ICJS), Electronic & Analytic Gateway for Law Enforcement (EAGLE) software, it reveals that both the accused/petitioners are habitual offenders to commit the offence of same nature and as per police station record, there are found 11 more FIRs against accused Sonu Dhanda and 5 more FIRs were found registered against accused Naresh Dhanda (petitioner No. 2) in district Karnal and other districts of State of Haryana except the present FIR. It is further prayed that the criminal history of the accused must be taken into consideration while disposing off the petition. The details of the FIRs is as under:-
Against accused Sonu Dhanda:-

(i) FIR No.28 dated 10.01.2019 U/S 406/420/506/34/379-B/384 of IPC Police Station Civil Lines, Karnal. Now, the case is fixed on 03.11.2023 before the Ld. Court of Sh. Anil Kumar, ASJ, Karnal for framing the charge.

- (ii) *FIR No.102 dated 05.03.2019 U/S 307/364/406/420/506 of IPC & 25/54/59 of Arms Act police Station Civil Lines, Kaithal. Now, the case is fixed on 18.11.2023 before the Ld. Trial Court for appearance of accused.*
- (iii) *FIR no.219 dated 15.11.2018 U/S 406/420/120-B of IPC Police Station Sadar, Kaithal, in which the case is fixed on 01.11.2023 before the Ld. Court of Sh. Parvesh Singla, ACJM, Kaithal for framing the charge.*
- (iv) *FIR No.37 dated 05.03.2019 U/S 148/149/307/406/420/506/34 of IPC & 25/54/59 of Arms Act Police Station Sadar, Kaithal, in which petitioner has been acquitted by the Ld. trial Court vide order dated 01.06.2023.*
- (v) *FIR No.26 dated 26.01.2015 U/S 148/149/323/447/511/506 IPC & 25/54/59 of Arms Act Police Station Civil Lines, Kaithal, in which the case has been quashed vide CRM-M No.39003 of 2017.*
- (vi) *FIR No.21 dated 03.02.2016 U/S 420/506 of IPC Police Station Civil Lines, Karnal, in which petitioner has been acquitted by the Ld. Trial Court of Sh. Amarjit Singh, JMIC, Kaithal vide order dated 01.06.2023.*
- (vii) *FIR No.183 dated 02.05.2018 U/S 420/506 of IPC Police Station Civil Lines, Kaithal, in which the petitioner was declared as PO and now he is in custody and matter is fixed on 01.11.2023 before the Ld. Court of ACJM, Kaithal for evidence of prosecution.*
- (viii) *FIR No.5 dated 07.01.2019 U/S 406/420/506 of IPC Police Station Sadar Tohana, Fatehabad, in which accused has been acquitted by the Ld. Trial Court vide order dated 18.10.2019.*
- (ix) *FIR No.32 dated 25.02.2019 U/S 406/420/120-B of IPC Police Station Patada (Punjab), in which the case is fixed on 16.11.2023 for appearance of accused persons.*
- (x) *FIR No.102 dated 24.01.2019 U/S 120-B/406/420 of IPC Police Station Sadar, Karnal, in which accused Sonu Dhanda has been declared as PO vide order dated 11.07.2022 and the next date is fixed on 06.11.2023 for appearance.*
- (xi) *FIR No.225 dated 07.10.2007 U/S 148/149/323/452/506/427 IPC Police Station Sadar, kaithal, in which accused Sonu was acquitted by the ld. Trial Court vide order dated 04.12.2009.*
- (xii) *FIR No.553/2021 U/S 384/420/406 of IPC Police Station Jhabarda (Haridwar), in which case is fixed on 09.11.2023 before*

the Ld. Trial Court of Ld. Addl. Sessions Judge, Roorkee for appearance.

Against accused Naresh Kumar Dhanda:-

(i) FIR No.102 dated 05.03.2019 U/S 307/364/406/420/506 of IPC & 25/54/59 of Arms Act police Station Civil Lines, Kaithal. Now the case is fixed on 18.11.2023 before the Ld. Court for appearance of accused.

(ii) FIR No.28 dated 10.01.2019 U/S 406/420/506/34/379-B/384 of IPC Police Station Civil Lines, Karnal. Now the case is fixed on 03.11.2023 before the Ld. Court of Sh. Anil Kumar, ASJ, Karnal for framing the charge.

(iii) FIR No.219 dated 15.11.2018 U/S 406/420/120-B of IPC Police Station Sadar, Kaithal. In which the case is fixed on 01.11.2023 before the Ld. Trial Court of Sh. Parvesh Singla, ACJM, Kaithal for framing the charge.

(iv) FIR No.102 dated 24.01.2019 U/S 120-B/406/420 of IPC police station Sadar, Karnal, in which case is fixed on 06.11.2023 before the Ld. Trial Court of Sh. Ravi Kumar, JMJC, Karnal for evidence of prosecution.

(v) FIR No.37 dated 05.03.2019 U/S 148/149/307/406/420 of IPC & 25/54/59 of Arms Act Police Station Sadar, Karnal, in which accused is in judicial custody in district Jail, Kaithal and the matter is fixed on 03.11.2023 for framing the charge.”

A bare glance on the above extract clearly reveals that both the petitioners are having chequered criminal history and present FIR is not the solitary case, which they are facing as on today.

13. Although, learned counsel for the petitioners vehemently contended that FIR No.28 mentioned at Sr. No.(i) (*supra*) has already been quashed by the Coordinate Bench vide order dated 07.02.2023, but the same is not helpful for the following reasons:-

- (i) In the present case, there are serious allegations against the petitioners for criminal conspiracy as well as cheating of

the complainant to the tune of Rs.1.32 crore on the pretext of selling gold @ Rs.22.00 lakh per kg.

- (ii) During investigation, a brick alleged to be of gold weighing 01 kg.001 gm was recovered from co-accused Jitender @ Kala.
- (iii) Whereas, on the other hand, from reading of the entire order dated 07.02.2023, the allegations in that case are not discernible.
- (iv) In the present case, after investigation, report under Section 173 Cr.P.C. was submitted way back against the accused and after framing of the charges (except Sonu Dhanda-petitioner No.1), the trial is stated to be pending for prosecution evidence.
- (v) However, again the order dated 07.02.2023 does not disclose about the status of investigation and/or proceedings before learned trial Court in that case.
- (vi) Also noteworthy that in present case, petitioner No.1 has been declared a proclaimed person on 11.07.2022; yet he is not coming forward to join the proceedings; thus his antecedents are lacking *bona fide*.

14. As the charges have already been framed against the accused (except petitioner No.1) on 28.03.2023 and which are very serious in nature; therefore, it would be appropriate to make a reference of the charge-sheet, which reads as under:-

“CHARGE-SHEET

I, Ravi, JMIC, Karnal, do hereby charge you accused Jitender alias Kala, Sakshi Ahuja, Naresh and Raghubir as under:-

That on 30.08.2018, accused Sonu Dhanda and Rajesh alias Candy were entrusted with Rs. 1.32 crores by the complainant for purchasing gold at the rate of Rs. 22 Lakhs per kg, but you above named accused in criminal conspiracy with each other dishonestly

mis-appropriated the said amount for you own purpose and neither delivered gold to the complainant nor returned back the money to the complainant, despite his requests and thereby committed an offence punishable under Section 406 read with Section 120B of IPC.

That, you above named accused in criminal conspiracy with each other, with intention of cheating the complainant, knowingly and dishonestly induced the complainant to deliver you Rs. 1.32 crores on the pretext of purchasing gold at the rate of Rs. 22 Lakhs per kg, however you neither deliver him gold nor returned the aforesaid money and thereby caused wrongful loss to the complainant and wrongful gain to yourself and thereby committed an offence punishable under section 420 read with Section 120B of IPC.

And I hereby direct you that you be tried by this court on the abovesaid charge.

(Ravi)
JMIC, Karnal. 28.03.2023

Certified that the contents of the charge have been read over to the accused in simple Hindi. Let the statement of accused be recorded.

(Ravi)
JMIC, Karnal. 28.03.2023

xxxxx of accused:

- 1. Raghbir alias Kala son of Baldev Singh, R/o VPO Manas, Tehsil and District Karnal.*
- 2. Jitender alias Kala son of Surajbhan, R/o Defence Colony, Gali No.2, Karnal.*
- 3. Naresh Kumar son of Raj Kumar, R/o Kultaran, District Kaithal.*
- 4. Sakshi daughter of Ravi Kant Ahuja, R/o 12A, Opposite Raj Academy, Ram Nagar, Ambala Cantt.*
- 5. Rajesh alias Candy Baba son of Sukhlal, R/o Sharifgarh, Shahbad, Kurukshetra.*

Q. Have you heard and understood the contents of charge?

Ans. Yes

Q. Do you plead guilty or claim trial?

A. We do not plead guilty and claim trial

RO&AC

(Ravi)

JMIC, Karnal. 28.03.2023

*Sd/- Raghbir Singh
Sd/- Jitender
Sd/- Naresh Kumar
Sd/- Sakshi
Sd/- Rajesh @ Candy Baba”*

15. In view of the above discussion, it is quite apparent that matter is now between State and the accused persons, including petitioners. Thus, mere compromise or settlement with the complainant by the petitioners is not binding upon the State; nor the same is to be accepted as a matter of course while exercising power under Section 482 Cr.P.C. Of course, in a given case, when it is established that quashing of FIR would be to secure the ends of justice or to prevent the miscarriage of justice, or that continuation of criminal proceedings on the basis of FIR would be complete misuse of the process of Court, the power under Section 482 Cr.P.C can be exercised. But here, in the present case, situation is entirely different. In other words, quashing of the FIR shall not result into securing the ends of justice; rather it shall frustrate the administration of criminal justice system. Hence, the State has rightly opposed the quashing petition for bringing the petitioners to justice.

16. Hon’ble the Supreme Court in **Arun Singh and Others Vs. State of Uttar Pradesh Through its Secretary and another, 2020 (3) SCC 736**, while dealing with the power under Section 482 Cr.P.C. in para 14, observed as under:-

“14. In another decision in Narinder Singh v. State of Punjab (supra) it has been observed that in respect of offence against the society it is the duty to punish the offender. Hence, even where there is a settlement between the offender and victim the same shall not

prevail since it is in interests of the society that offender should be punished which acts as deterrent for others from committing similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrent punishment. In such cases, the court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve a festering private dispute and thus may exercise power under Section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.”

16.1 Again in **Daxaben Vs. The State of Gujarat & others 2022 LiveLaw (SC) 642**, Hon’ble the Supreme Court, in para Nos.38, 39 & 40 observed as under:-

“38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, bride-burning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.

40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is lodged and a criminal case is started by the State, it becomes a matter between the State and the accused. The State has a duty to ensure that law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious non-compoundable offences which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a non-compoundable offence of a grave, serious and/or heinous nature, which impacts society.”

17. Although, learned counsel after facing the above predicament, submitted that he wishes to withdraw the petition qua petitioner No.1 and tried to press the quashing petition only on behalf of petitioner No.2, but the same is of no help in view of the discussion made hereinabove.

For the sake of repetition, it is *prima facie* evident that charges against the petitioners are very serious, i.e. for entrustment of Rs.1.32 crore and selling of gold @ Rs.22.00 lakh per kg. while hatching a criminal conspiracy with other co-accused and dishonestly misappropriation of the same. Even the alleged gold brick weighing 01 kg. 001 gm. has already been recovered during investigation from co-accused Jitender @ Kala and it would be a matter of evidence during trial to establish the actual contents of aforesaid brick. Thus, the accusation against the petitioners as well as other co-accused, is not merely personal or private in nature; rather having cascading effect in the society at large.

18. As a result thereof, this Court was inclined to dismiss the petition with exemplary costs. However, taking a lenient view, this petition is dismissed, but no order as to costs.

19. Keeping in view the controversy involved, learned trial Court shall proceed in the matter expeditiously, if there is no legal impediment.

20. Superintendent of Police, Karnal shall ensure for taking necessary steps to secure the presence of petitioner No.1, as per law and to produce him before learned trial Court at the earliest.

Compliance report(s) in this regard be sent to the Registry by 31.01.2024.

21. However, it is clarified that observations made above be not construed as expression of opinion on the merits of the case pending before learned trial Court, in any manner; rather be confined for the present petition under Section 482 Cr.P.C. only.

22. Pending application(s), if any, shall also stand disposed off.

09.11.2023
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/ reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether reportable</i>	:	<i>Yes</i>	/	<i>No</i>