

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

CRM-M-19753-2023

Date of Decision: 21.04.2023

Jaswinder Singh

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Arjun Shukla, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Ms. Shelly Arora, Advocate, for respondent No.2.

Rajesh Bhardwaj, J.

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.525 dated 14.12.2022 registered under Sections 406, 420 IPC, at Police Station Sohana, District SAS Nagar alongwith all the subsequent proceedings arising therefrom on the basis of compromise dated 12.04.2023 (Annexure P-3).

As per facts of the case, the impugned FIR was registered on the statement of Malkit Singh. It was alleged that the complainant applied for an agricultural loan amounting to Rs.1 crore on his agricultural land. However, for sanctioning the loan Jaswinder Bhatti i.e. the petitioner demanded a sum of Rs.5 lacs from the complainant. The complainant paid Rs.3,50,000/- for the same and he was assured that the loan would be sanctioned within 10 days. Remaining amount of Rs.1,50,000/- was to be paid by the complainant at the time to sanctioning of loan. Thereafter, the complainant found that Jaswinder Bhatti and Dilharjit Singh, assistant of the Jaswinder Bhatti had been transferred to another bank. The complainant tried

to contact them and visited them personally as well, for the sanctioning of the loan, but they did not give any satisfactory reply to him. Neither the loan was sanctioned nor the amount of Rs.3,50,000/- paid by the complainant was returned. Finding him having been cheated, the complainant filed a complaint for taking legal action against them. On the basis of the same, the FIR was registered and investigation commenced.

Learned counsel for the petitioner has vehemently submitted before this Court that after registration of the FIR, the petitioner settled the dispute amicably with respondent No.2-complainant. He submits that the petitioner has been granted regular bail also in this case. He submits that with the intervention of the respectables, compromise has been arrived at between the petitioner and the complainant, which has been placed on record as Annexure P-3. He relies upon the judgment rendered by the Full Bench of this Court in case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052** and **Rajesh Rana and others vs. State of Punjab and another**, passed in CRM-M-42829-2021 decided on 22.02.2022. He submits that in view of the same, prosecution of the petitioner is nothing but an abuse of the process of the Court.

Learned counsel for respondent No.2 has endorsed the submissions made by learned counsel for the petitioner.

However, learned State counsel on instructions has submitted that the case is under investigation and there are serious allegations made against the petitioner by the complainant. He submits that in all there are two accused and the co-accused has not even joined the investigation. He submits that the compromise arrived at between the petitioner and the complainant is of no consequences as there are serious allegations against both the accused especially when the co-accused is not even traceable for investigation. He

submits that in the facts and circumstances of the case, the petition deserves to be dismissed.

After hearing learned counsel for the parties and perusing the record, it is apparent that in all there are two accused in this case. Investigation is under progress and the challan is yet to be presented. Besides this there are serious allegations against the petitioner and the co-accused, who has even not joined the investigation till date and he is wanted by the Investigating Agency.

Hon'ble Supreme Court in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335 has held that the High Court has inherent power under Section 482 Cr.P.C. for quashing the FIR, however, the same should not be exercised for the offence falling under the heinous categories. It has been further observed in Bhajan Lal's (supra) as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

- (1)“Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute

- any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and**

another, (2012) 10 SCC 303, has further held as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the

compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Recently, Hon'ble the Supreme Court in the case of **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and another**, 2021 SCC Online SC 315 has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with circumspection in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

The compromise arrived at between the parties is a partial compromise, which would hamper the trial and thus in the facts and circumstances of the case, this Court finds no merit in the present petition so as to allow the petition to be quashed qua the petitioner.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court finds that case in hand fails to qualify for invoking the inherent jurisdiction. Resultantly, the present petition being devoid of any merit is hereby dismissed.

Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

21.04.2023		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned	: Yes/No
	Whether Reportable	: Yes/No