

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

**CRM-M No.29410 of 2020 (O&M)
Date of decision: 28.11.2023**

Mahender Kumar Goyal and others

... Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Nidhi Dahiya, Advocate for
Mr. Sameer S. Tiwari, Advocate for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana for respondent No.1.

None for respondent No.2/complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.1013 dated 22.11.2018, under Sections 406, 420 of the Indian Penal Code, 1860 & Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 (Haryana Act No.32 of 2014), registered at Police Station Ballabgarh City, District Faridabad along with all consequential proceedings arising therefrom on the basis of compromise dated 16.08.2019 & 07.07.2020 (P-2 & P-3),

respectively, entered into between the parties i.e. petitioners as well as respondent No.2.

(2) Above FIR was registered by respondent No.2-Khem Chand with the allegations that petitioners, in connivance with each other, had prepared false/fictitious documents and cheated him by inducing to invest in their companies.

(3) It is contended by learned Counsel for the petitioners that matter has been amicably settled between the parties; hence, the aforesaid FIR along with consequential proceedings be quashed.

(4) *Per contra*, learned State Counsel, while making reference to the preliminary objection of the affidavit dated 12.11.2020 of Sh. Jaiveer Singh, Assistant Commissioner of Police, Ballabgarh, District Faridabad, opposed the prayer on the premise that there are two other victims also i.e. Raj Rani and Lokender, but there is no compromise or settlement with them. Also submitted that apart from present FIR, petitioners are facing two other criminal cases of similar nature; hence, habitual in indulging such activities. Lastly submitted that mere settlement between the parties cannot be a ground to quash the FIR, when allegations are serious in nature, having adverse impact in the society at large.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that there are two other aggrieved persons, namely, Raj Rani and Lokender, with whom there is no settlement or compromise by the petitioners.

(7) It is a matter of record that petitioners are facing two more FIRs and in this regard, reference can be made to relevant para of the preliminary objection of the affidavit dated 12.11.2020 and which reads as under:-

“Two more cases have been registered against the petitioners i.e. FIR No. 123 of 2020 under Section 406, 420, 467, 468, 471, 506, 120B IPC and FIR No.502 dated 21.09.2020 under Section 406, 420, 506, 120B IPC at Police Station City Ballabgarh.”

(8) Also noteworthy that charges in the matter have already been framed on 29.03.2022 under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013. Apart that, petitioner No.2-Surender Kumar Goyal is evading the process of law and his arrest warrants have been issued for 06.12.2023.

(9) In the present case, allegations are very serious. Now the matter is between State and the accused persons; thus, mere compromise or settlement with the complainant would not be 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 an 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 would 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.

(10) Hon'ble the Supreme Court in **“Arun Singh and Others Versus 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:-

“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.”

(10.1) Again in **“Daxaben Versus 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.”

(11) In such a scenario, no ground is made out to quash the FIR at the threshold along with all consequential proceedings on the basis of

compromise. As a result thereof, there is no option except to dismiss the petition.

Ordered accordingly.

(12) However, it is made clear that the observations, made above, be not considered as an expression of opinion on the merits of the case pending before learned trial Court.

(13) Learned trial Court is requested to proceed in the matter, expeditiously, if there is no legal impediment.

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

November 28, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes