

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

CRM-M No.138 of 2023 (O&M)

Date of decision: 5th May, 2023

Rajinder Kaur & others

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manuj Nagrath, Advocate for the petitioners.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondents/State.

Mr. Sahil Thakur, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0243 dated 01.11.2017 (Annexure P-1) under Sections 420, 465, 467, 468, 471, 120-B IPC registered at Police Station Division No.4, Police Commissionerate, Ludhiana along with all subsequent proceedings arising therefrom on the basis of compromise dated 19.11.2022 (Annexure P-2).

In compliance of order dated 09.01.2023 passed by this Court, report dated 11.04.2023 has been received from learned Sub Divisional Judicial Magistrate, Ludhiana. It stands reflected in the report that none of the parties appeared before the Court to get their statements recorded.

Learned counsel for petitioner has now moved an application bearing CRM No.15866 of 2023 for grant of another opportunity to get the statements of the parties recorded before the Court below.

Learned State counsel has however, opposed the prayer of the parties for quashing of the FIR in question by drawing the attention of this Court to the allegations levelled in the FIR. He has submitted that a perusal of the FIR reveals that besides the present petitioners, namely Rajinder Kaur, Ravinder Singh and Jaspreet Singh, another person, Jagjit Singh, too has been named as an accused, whose role is no different from that of the petitioners. However, no compromise has been effected with him, hence, if the FIR in question is partially quashed on account of the compromise effected by the complainant/respondent No.2 with the petitioners, to the exclusion of the fourth accused namely Jagjit Singh, it would run contrary to securing the ends of justice and spirit of compromise. In support, learned State counsel has placed reliance upon **‘Yatin @ Mithu & another vs. State of Haryana’ CRM-M-7450-2022.**

I have heard learned counsel for the parties and perused the relevant material on record.

As per the allegations levelled by respondent No.2/complainant in the FIR in question, her mother Rajinder Kaur (petitioner No.1), Ravinder Singh (petitioner No.2), Jaspreet Singh

(petitioner No.3) and Jagjit Singh, after the death of her father, Mohan Singh, connived with each other to usurp the share of the complainant in the property by forging a Will dated 05.09.2013 and subsequently, submitted a photocopy of the aforesaid Will to the revenue authorities. Thereafter, the property of the deceased was mutated in favour of the petitioners and the accused Jagjit Singh.

Thus, a bare perusal of the allegations levelled in the FIR in question indicates that the roles played by all the accused including Jagjit Singh, are identical in nature.

Furthermore, it would also be apposite to reproduce the relevant extract of the compromise deed (Annexure P-2) entered into between the petitioners and Respondent No.2:

“2. That the party of the first part have lodged the FIR No.243, dated 1.11.2017, u/s 420/465/467/468/471/120-B IPC at P.S. Division No.4, Ludhiana, against the party of the first part as well as against other brother of the party of first part namely Jagjit Singh son Late Mohan Singh.

3. That now with the intervention of the respectable relatives and friends the matter between the both the parties have been settled amicably, however no settlement have been made by the party of the first part with her other brother namely Jagjit Singh son of Late Mohan Singh.

4. That now the relations of the party of first part are very cordial with the party of the second part being her

mother and brothers, however, the relations of the party of the first part with the other brother namely Jagjit Singh are not cordial.

5. *That now the party of the first part does not want to pursue the above said FIR against the party of the second part and the party of the first part have no objection if the above said FIR in question against the party of the second part.”*

No doubt, the Hon’ble Supreme Court, in a catena of decisions has held that in an appropriate case, the powers conferred under Section 482 Cr.P.C. can be exercised to quash criminal proceedings even in respect of non-compoundable offences to secure the ends of justice, or to prevent the abuse of the process of law or to bring peace and harmony between close relatives. However, the facts of each case have to be scrutinized carefully before arriving at such a decision. Even when quashing of an FIR/complaint is sought on the basis of a compromise effected between the parties, the Court is expected to remain vigilant to ensure that the object behind Section 482 Cr.P.C. which is to prevent abuse of the process of law, or otherwise to secure the ends of justice, is not defeated by giving effect to such compromise, which if on close scrutiny does not inspire confidence.

Faced with a similar situation, this Court in **Yatin’s case (ibid)**, has held as under:

“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.”

Adverting to the case in hand, the petitioners and the co-accused Jagjit Singh have been attributed identical roles in the crime in question and therefore, it does not sit well with the prudence of this Court that how could one out of the four accused be left to face trial in respect of a similar role in the crime in question, qua which compromise has been effected between the complainant/respondent No.2 and the petitioners/accused, to the exclusion of the co-accused Jagjit Singh. Once it is alleged that all the accused are equal partners in crime, it is not understandable as to how Jagjit Singh alone should be left to face the trial, just because relations between the complainant and Jagjit Singh continue to be strained, whereas with the petitioners “now the relations” are cordial.

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

(MANJARI NEHRU KAUL)
JUDGE

May 5, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No