

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19232-2024 (O&M)
Date of order: 26.09.2024

Kulwant Singh & another
... Petitioner(s)
Versus
State of Punjab & others
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Narinder Sharma, Advocate
for the petitioner(s).

Ms. Swati Batra, DAG, Haryana.

Mr. Vikrant Vij, Advocate
for respondents no.2 and 3.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
39	17.12.2020	NRI, SAS Nagar	420 and 120-B IPC

CRM-38690-2024:

For the reasons mentioned in the application, the same application is allowed. Hearing of the main case is preponed from 24.10.2024 to today and the same is taken on Board.

CRM-M-19232-2024:

The petitioners, arraigned as accused in the above captioned FIR, have come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on the compromise with the aggrieved person(s).

2. During the pendency of criminal proceedings, the accused and the aggrieved person(s) have compromised the matter. After that, the petitioners came up before this Court to quash the FIR, impleading the aggrieved person(s) as respondents no.2 and 3 and annexing the copy of compromise with this petition as Annexure P-4& P-5.

3. Counsel for the petitioners has handed over the demand draft(s) to the counsel for respondents no.2 and 3 in Court itself to be given to respondents no.2 and 3, as per the settlement arrived at between the parties. Counsel for the petitioners submits that they have already deposited costs of Rs.25,000/- in compliance of order dated 20.4.2024 of this Court and receipt of the same furnished before sending statement



before the trial Court. On the other hand, counsel for respondents no.2 and 3 submitted that they have no objection to the FIR being quashed.

4. Pursuant to order dated 20.4.2024 of this Court, the aggrieved person (R-2) appeared before the Judicial Magistrate Ist Class, SAS Nagar, Mohali and stated that he is also authorized to give statement on behalf of his son, respondent no.3, being his Special Power of Attorney, there would be no objection if the court quashes this FIR and consequent proceedings. As per the concerned court's report dated 17.5.2024, the parties consented to the quashing of FIR and consequent proceedings without any threat.

ANALYSIS & REASONING:

5. Despite the severe opposition of the State's counsel to this compromise, the following aspects would be relevant to conclude this petition: -

- a) The accused and the private respondent have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;
- b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;
- c) The aggrieved person has willingly consented to the nullification of criminal proceedings;
- d) There is no objection from the private respondent in case present FIR and consequent proceedings are quashed;
- e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;
- f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;
- g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;
- h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, community, and society;
- i) The exercise of the inherent power for quashing FIR and all consequential proceedings is justified to secure the ends of justice.

6. In the present case the offence under section 420 and 120-B under Indian Penal Code, 1860 are compoundable under Section 320 CrPC, because when all other



offences of IPC in the FIR are compoundable, then 120-B IPC also becomes compoundable.

7. In C.B.I., New Delhi v. Duncans Agro Industries Ltd., Calcutta, 1996(5) SCC 591, Hon'ble Supreme Court holds,

[26]. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the respective counsel for the parties, it appears to us that for the purpose of quashing the complaint, it is necessary to consider whether the allegation in the complaint *prima facie* make out an offence or not. It is not necessary to scrutinise whether the allegations are likely to be upheld in the trial. Any action by way of quashing the complaint is an action to be taken at the threshold before evidences are led in support of the complaint. For quashing the complaint by way of action at the threshold, it is, therefore, necessary to consider whether on the face of the allegations, a criminal offence is constituted or not.

[29]. In the facts of the case, it appears to us that there is enough justification for the High Court to hold that the case was basically a matter of civil dispute. The Banks had already filed suits for recovery of the dues of the Banks on account of credit facility and the said suits have been compromised on receiving the payments from the concerned Companies. Even if an offence of cheating is *prima facie* constituted, such offence is a compoundable offence and compromise decrees passed in the suits instituted by the Banks, for all intents and purposes, amount to compounding of the offence of cheating. It is also to be noted that long time has elapsed since the complaint was filed in 1987. It may also be indicated that although such FIRs were filed in 1987 and 1989, the Banks have not chosen to institute any case against the alleged erring officials despite allegations made against them in the FIRs. Considering that the investigations had not been completed till 1991 even though there was no impediment to complete the investigations and further investigations are still pending and also considering the fact that the claims of the Banks have been satisfied and the suits instituted by the Banks have been compromised on receiving payments, we do not think the said complaints should be pursued any further. In our view, proceeding further with the complaints will not be expedient. In the special facts of the case, it appears to us that the decision of the High Court in quashing the complaints does not warrant any interference under Article 136 of the Constitution. We, therefore, dismiss these appeals.

8. In Nikhil Merchant vs C.B.I. & Anr, Cr.A 1302 of 2008, Hon'ble Supreme Court holds,

[22]. Despite the ingredients and the factual content of an offence of cheating punishable under Section 420 IPC, the same has been made compoundable under Sub-section (2) of Section 320 Cr.P.C. with the leave of the Court. Of course, forgery has not been included as one of the compoundable offences, but it



is in such cases that the principle enunciated in B.S. Joshi's case (supra) becomes relevant.

[23]. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

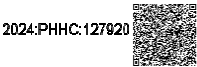
[24]. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

9. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

10. In the light of the judicial precedents referred to above, given the terms of compromise, placement of parties, and other factors peculiar to the case, the contents of the compromise deed and its objectives point towards its acceptance.

11. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, **2018:INSC:1039 [Para 47]**, 2018 (4) Crimes 324, Hon'ble Supreme Court holds "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stands vitiated."

12. Considering the entire facts, compromise, and in the light of the above-mentioned judicial precedents, I believe that continuing these proceedings will not



suffice any fruitful purpose whatsoever. In the facts and circumstances peculiar to this case, the Court invokes the inherent jurisdiction under section 482 CrPC and quashes the FIR and all subsequent proceedings *qua* the petitioner(s). The bail bonds of the petitioners are accordingly discharged.

Petition allowed in the terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

September 26, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No