

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40267-2024 (O&M)

Reserved on: 11.09.2024

Date of Pronouncement: 20.09.2024

Parash Kumar Poplani ... Petitioner(s)
Versus
State of Punjab and anothers ...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Ms. Avneet Kaur, Advocate and
Ms. Gurpreet Kaur Sarabha, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.
Mr. Parminder Singh Gill, Advocate for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
50	29.05.2024	I.T. Mohali Punjab	406, 420 IPC, 1860

The petitioner, arraigned as accused in the above captioned FIR, has 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 persons.

2. During the pendency of the criminal proceedings, the accused and the aggrieved person(s) have compromised the matter, and its copy is annexed with this petition as Annexure P-2.

3. After that, the petitioner came up before this Court to quash the FIR, impleading the aggrieved persons as respondent no.2.

4. Pursuant to order of this Court dated 21.08.2024, the aggrieved person(s) (Respondent no.2), appeared before the Judicial Magistrate 1st Class, SAS Nagar (Mohali) and stated that there would be no objection if the Court quashes this FIR and consequent proceedings. The relevant extract of the report of the concerned Court reads as follows:

Name of the reporting Court	Judicial Magistrate 1 st Class, SAS Nagar (Mohali)
Criminal Case no. before trial Court	---

1.	Names of the complainant/ victims(s)/ aggrieved persons(s)	Geetika Lidder
2.	Dates on which the statement(s) of the complainant/ victims(s)/ aggrieved persons(s) were recorded	31.08.2024
3.	Has the identity of the complainant/ victims(s)/ aggrieved persons(s) been verified?	Yes
4.	Whether all the victims/ all the aggrieved persons have compromised the matter?	Yes
5.	Is there pressure, threat, or coercion upon the victim(s)/aggrieved person(s)/complainant?	No
6.	Names of the accused person(s)	Parash Kumar Poplani
7.	Dates on which the statement(s) of the accused persons(s) recorded	31.08.2024
8.	Whether all the accused have compromised the matter? If no, then the names of the accused who have compromised.	Yes
9.	Whether proclamation proceedings are pending against any accused?	No
10.	Has the police report been filed or not?	No
11.	Notice of accusation /Charges have been framed or not?	No
12.	Sections of statutes invoked in the matter	Sections 406 and 420 of IPC, 1860
13.	Whether the court is satisfied with the genuineness of the compromise?	Yes

6. In the present case, the offences under section 420 and 406 of Indian Penal Code, 1860 is compoundable under Section 320 CrPC.

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. sw

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 stand 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. The bail bonds of the petitioner are accordingly discharged. All pending application(s), if any, stand closed.

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

(ANOOP CHITKARA)
JUDGE

September 20, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No