

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-44927-2018 (O&M)

Date of decision: 16.11.2018

Dharminder Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. RK Shukla, Advocate for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

None for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

As per office report, notice issued to respondent No. 2- Amarjit Kaur, received back with the report that she has expired.

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No. 87 dated 30.06.2015 (Annexure P-1) registered under Sections 447, 511, 506, 148, 149 and 201 IPC at Police Station Passiana, District Patiala and all the subsequent proceeding arising therefrom on the basis of compromise dated 13.03.2018 (Annexure P-2).

Briefly, petitioners were booked and tried in the aforesaid FIR (Annexure P-1), on the complaint of respondent No. 2-Amarjit Kaur, who is none else, but real mother of petitioner No. 3-Gagandeep Kaur,

married to petitioner No.1, son of petitioner No. 2, whereas petitioners No. 4 and 5, are their close relatives, on the allegations that they illegally trespassed her land, with an intention to forcibly occupy the same and tried to plough it.

During trial, compromise dated 13.03.2018 (Annexure P-2) took place between the parties, with the intervention of respectables. Pursuant thereto, respondent No. 2, moved application dated 22.03.2018 (Annexure P-3) under Section 320 Cr.P.C., before the trial Court to acquit the petitioners and permit her to compound the offence. However, the trial Court vide order dated 04.04.2018 (Annexure P-4) rejected that said application, on the ground that offences under Sections 148 and 201 IPC were not compoundable. Therefore, it had no authority to grant permission under Section 320 Cr.P.C., to compound the offences.

Heard.

By this time, it is well settled that when some offence is not compoundable under Section 320 Cr.P.C., FIR on the basis of compromise may be quashed by this Court, while exercising powers under Section 482 Cr.P.C.

As per office report, respondent No. 2 has expired after filing of this petition. The petitioners would be acquitted by the trial Court on merits in the absence of statement of respondent No. 2-Amarjit Kaur, which was not yet recorded.

Considering the fact that respondent No. 2 had already expired and prosecution shall not succeed in getting the petitioners convicted in the absence of statement of deceased respondent No. 2, FIR

No. 87 dated 30.06.2015 (Annexure P-1) registered under Sections 447, 511, 506, 148, 149 and 201 IPC at Police Station Passiana, District Patiala and all the subsequent proceedings arising therefrom, qua the petitioners are quashed, subject to payment of costs of ₹10,000/- out of which ₹3,000/- shall be deposited with the Bar Association, Punjab and Haryana High Court, Chandigarh and ₹7,000/- with the Prime Minister's National Relief Fund, within a period of three weeks' from today, failing which this petition shall be deemed to be dismissed.

List on 15.12.2018, for production of receipt regarding deposit of costs.

November 16, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No