

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

**CRM-M-47231-2018
Date of decision: 27.11.2019**

Kuldeep Bhushan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sukesh K. Jindal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 21.08.2018 passed by the trial Court, vide which, while allowing an application jointly filed by the petitioner-complainant and respondents No.2 to 4/accused under Section 320 Cr.P.C., for compounding the offence, was partly allowed and the offences under Sections 407 & 420 read with Section 120-B IPC were compounded, however, an observation was made that since the accused have been separately charge-sheeted under Section 120-B IPC, the same cannot be compounded.

On 19.11.2018, the following order was passed by this Court:

“Learned counsel for the petitioner submits that once the respondents-accused have been acquitted of the charges under Sections 407, 420 read with Section 120-B IPC, vide same impugned order, there was no justification for the trial Court to hold that the offence under Section 120-B IPC is substantive offence and the same cannot be compounded. It is further submitted that once the trial Court has compounded the offences under

Section 407 & 420 read with Section 120-B IPC, the charge under Section 120-B IPC framed independently, is also liable to be compounded as per provisions of Section 320(3) Cr.P.C. In support of his arguments, learned counsel has relied upon a judgment of this Court in ***Joginder Singh and others Vs. State of Punjab and another, 2006 (3) RCR (Crl.) 944.***

Notice of motion for 17.12.2018.

In the meantime, trial Court is directed to adjourn the case beyond the date fixed before this Court and submit a report in this regard.”

Learned counsel for the petitioner submits that since the matter stands compromised between the parties and the statements were recorded before the trial Court in this regard, the offences under Sections 407 & 420 read with Section 120-B IPC were compounded, however, the trial Court has made an observation that since the accused persons have been separately charge-sheeted under Section 120-B IPC, the same cannot be compounded.

Reply, filed by way of affidavit of DSP, Karnal, is on record, in which the factual position is not disputed. In reply, it is stated that after the completion of the investigation and when the charge-sheet under Section 173(2) Cr.P.C. was prepared and submitted before the Illaqua Magistrate, a joint application was moved by the petitioner/complainant as well as the accused persons before the trial Court seeking permission to compound the charge under Sections 407, 420 read with Section 120-B of the IPC on the basis of the compromise, which was entered into between the parties without any fear, pressure or coercion on either of the parties.

After hearing learned counsel for the parties and going through

the contents of the said joint application, moved under Section 320 Cr.P.C. by the petitioner/complainant as well as the accused persons and also in view of the judgment rendered in *Joginder Singh's case (supra)*, the present petition is allowed and the charge under Section 120-B IPC is quashed.

27.11.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No