

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3346-2021

Date of decision : 05.09.2022

Gurjinder Singh @ Saba and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Bhargava, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Ms. Pratula Sethi, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0124 dated 19.06.2020, registered for the offences punishable under Sections 323, 324, 325 and 34 of IPC at Police Station Chheharta, District Police Commissionerate Amritsar, on basis of compromise deed dated 16.01.2021 (Annexure P-2).

On 25.01.2021, the following order was passed:-

“Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C., is for quashing of FIR No.0124 dated 19.06.2020, registered under Sections 323, 324, 325 and 34 IPC, at Police Station, Chheharta, District Police Commissionerate, Amritsar as well as all consequential proceedings emanating therefrom on the

basis of compromise, Annexure P/2, dated 16.01.2021 as well as decision of Full Bench of this Court in 'Kulwinder Singh and others versus State of Punjab and another', 2007(3) RCR (Crl.) 1052.

Notice of motion.

Mr. H.S. Sullar, learned DAG, Punjab, accepts notice on behalf of respondent No.1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise Annexure P/2, dated 16.01.2021. Mr. Ruhani Chadha, learned counsel puts in appearance on behalf of respondent No.2 and states that he has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of compromise Annexure P/2, dated 16.01.2021.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned on 05.02.2021, for recording of their statements in terms of compromise, Annexure P/2, dated 16.01.2021.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 12.02.2021.

Reply if any be filed in the meantime."

Pursuant to the aforesaid order, report from JMJC, Amritsar dated 10.02.2021 has been received, which is taken on record. As per the

report, the trial Court has recorded as follows:-

“xx xx xx

I have the honour to submit that in compliance with the above mentioned order, complainant, Sonu Kumar, appeared and stated that FIR No.124/2020 of P.S. Chheharta, Amritsar, under sections 323/324/325/34 IPC was registered on his statement against two accused namely Gurjinder Singh and Sandeep Singh. He has further stated that with his own free will, he has entered into compromise with both the accused. He has given statement that the original compromise deed, has been placed before the Hon'ble Punjab & Haryana High Court, Chandigarh, in CRM-M-3346-2021. He also stated that no cross case is pending between the parties and no accused has been declared as proclaimed offender. Similarly, accused Gurjinder Singh, and Sandeep Singh have also stated and placed on record their affidavits to the effect that they have not been declared as proclaimed offender in the said FIR and no cross-case is pending between the parties.

Statement of ASI Balwinder Singh, Investigating Officer of FIR No.124/2020 of P.S.Chheharta, Amritsar, under sections 323/324/325/34 IPC, was recorded, who stated that the said FIR was registered against two accused namely Gurjinder Singh and Sandeep Singh and none of them has been declared proclaimed offender in the said FIR.

Accordingly, in view of the statements of complainant, Sonu Kumar, both the accused Gurjinder Singh and Sandeep Singh, and as per the statement of Investigating Officer ASI Balwinder Singh, no accused has been declared as proclaimed offender in this case, no cross-case is pending between the parties

and the compromise has been arrived between the complainant. Sonu Kumar, and both the accused namely Gurjinder Singh and Sandeep Singh, voluntarily, with his own free will and without any pressure or coercion.”

Ms. Pratula Sethi, Advocate, appears for respondent No.2 and admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 324 of the IPC is non compoundable.

In response thereto, learned counsel for the petitioners relies upon the judgment passed by the Supreme Court in *Criminal Appeal No.1489 of 2012, titled as 'Ramgopal and another vs. The State of Madhya Pradesh'*. The relevant portion of which reads as under;-

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping

in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, present petition is allowed. FIR No.0124 dated 19.06.2020 registered for the offences punishable under Sections 323, 324, 325 and 34 of IPC at Police Station Chheharta, District Police Commissionerate Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

05.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No