

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

CRM-M-5519-2021

Date of decision : 12.09.2022

Kanwalpreet Singh and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Nafees Ahmad Khan, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Aazam Khan, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.32 dated 18.02.2020, registered for the offences punishable under Sections 406, 420 and 120-B of IPC at Police Station City Gurdaspur, District Gurdaspur, on basis of compromise dated 26.10.2020 (Annexure P-2).

On 11.07.2022, the following order was passed:-

“The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.32 dated 18.02.2020 under Sections 406, 420 and 120-B of the IPC registered at Police Station, City Gurdaspur, District Gurdaspur (Annexure P-1) and all consequential proceedings arising therefrom on the basis of compromise deed dated 26.10.2020 (Annexure P-2) effected between the parties.

Mr. Intzar Ul Hasan, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise deed dated 26.10.2020 (Annexure P-2) and filed his Power of Attorney in the Court today which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 09.08.2022 or any other date convenient to the Court for recording their respective statements with regard to compromise/settlement.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused in FIR;
- (ii) Whether any accused is proclaimed offender;
- (iii) The stage of trial/proceedings;
- (iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.
- (v) Whether the compromise has been effected with all the accused persons and with all the complainant(s)/injured.

To come up on 12.09.2022 for further consideration.

Reply by respondent No.1-State be filed on or before the next date of hearing, if so desired.”

Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Gurdaspur dated 20.08.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Further, Investigating Officer/ASI Ajay Rajan No. 799/GSP, Police Station City Gurdaspur appeared on 16.08.2022 and suffered statement to the effect that the present case was got registered by complainant Ashwani Gupta. There are three persons namely Kanwalpreet Singh, Paramjit Kaur and Surinder Singh have been arrayed as accused in the present FIR. Accused Surinder Singh had died. No person has been get declared as proclaimed offender in the present case. Challan has not been filed in this case. The compromise has been effected between all the accused persons and complainant. He identified the complainant as well as accused/petitioners. (Copy of statement attached herewith).

In view of the above said statements of the parties, it is submitted that there are three persons namely Kanwalpreet Singh. Paramjit Kaur and Surinder Singh have been arrayed as accused in the present FIR. Accused Surinder Singh had died as per statement of Investigating Officer.

No person has been get declared as proclaimed offender in the present case as per statement of Investigating Officer.

Challan has not filed in this case.

The compromise is genuine, voluntary and without any coercion or undue influence.

Compromise has been effected between all the accused persons and complainant.

Report on the basis of compromise, which is found genuine. voluntary and without any coercion or undue influence from the statements of the parties, submitted, please.”

Mr. Aazam Khan, 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 120-B 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.32 dated 18.02.2020, registered for the offences punishable under Sections 406, 420 and 120-B of IPC at Police Station City Gurdaspur, District Gurdaspur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

12.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No