

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6132-2021 (O&M)
Date of decision : 23.08.2022

Rafeek Khan

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Sankalp Gehlawat, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.413 dated 16.12.2020 registered under Sections 279/337 IPC at Police Station Beri, District Jhajjar on the basis of compromise dated 03.02.2021 (Annexure P-1).

On 10.02.2021, the following order was passed:-

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

Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.413 dated 16.12.2020, registered under Sections 279, 337 of IPC, 1860, at Police Station Beri, District Jhajjar, along with all consequential proceedings emanating therefrom, on the basis of compromise, Annexure P/1 dated 03.02.2021.

Notice.

Mr. Vivek Chauhan, Advocate 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/1 dated 03.02.2021.

Mr. Sankalp, 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/1 dated 03.02.2021.

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 19.02.2021 for recording of their statements in terms of compromise, Annexure P/1 dated 03.02.2021.

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 12.03.2021.

Reply, if any, be filed in the meantime.”

Pursuant to the aforesaid order, report from JMIC, Jhajjar dated 23.02.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

As per the statement suffered by the complainant and accused it is apparent that compromise has been effected between complainant

and accused. They are fully satisfied with the terms of compromise, which is annexure P1. It also appears that compromise effected between the parties is genuine one and made without any pressure or coercion.”

Mr. Sankalp Gehlawat, 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 279 of the IPC is non compoundable.

In response thereto, learned counsel for the petitioner 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.413 dated 16.12.2020 registered under Sections 279/337 IPC at Police Station Beri, District Jhajjar and all proceedings arising therefrom, are, hereby, quashed.

(PANKAJ JAIN)
JUDGE

23.08.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No