

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

CRM-M-7740-2021 (O&M)

Date of decision : 11.03.2022

Rahul Gill and another

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Nitin Narula, Advocate
for the petitioners.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

Mr. Sandeep Sharma, Advocate
for respondent No.2.

(Through Video Conferencing)

PANKAJ JAIN, J. (Oral)

CRM-8866-2022

Application for placing on record copy of birth certificate dated 26.09.2021 as Annexure P-4 in compliance of the order dated 14.02.2022 is allowed, subject to all just exceptions. Annexure P-4 is taken on record.

Main case

By way of present petition, the petitioners are seeking quashing of FIR No. 0055 dated 15.05.2018 registered under Sections 363, 365 and 120-B IPC at Police Station Islamabad, District Amritsar, on the basis of compromise deed dated 26.01.2021 (Annexure P-2).

As per birth certificate (Annexure P-4), it is evident that Saira Gill was born on 19.09.2021 during the pendency of the present petition.

Pursuant to the order dated 18.02.2021, report from JMIC, Amritsar dated 21.05.2021 has been received, which is taken on record.

As per the report, the trial Court has recorded as follows:-

“From the statements, it appears that complainant and accused/petitioner have compromised the matter without any pressure, duress, inducement and threat of any kind from any corner voluntarily with their free will.”

Mr. Sandeep Sharma, 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 offences punishable under Sections 363, 365 and 120-B of the IPC are 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, FIR No. 0055 dated 15.05.2018 registered under Sections 363, 365 and 120-B IPC at Police Station Islamabad, District Amritsar, and all proceedings arising therefrom is hereby quashed.

Petition stands allowed.

(PANKAJ JAIN)
JUDGE

11.03.2022

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No