

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

CRM-M-8590-2022

Date of Decision: 24.08.2022

POONAM PAWAR AND OTHERS

...Petitioners

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: None for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Gourav Gupta, Advocate
for respondent No. 2.

PANKAJ JAIN J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No. 1413 dated 18.12.2017 registered under Sections 406, 420, 200, 199, 120-B of IPC at Police Station Faridabad Central, District Faridabad and all consequential proceedings arising therefrom on the basis of compromise dated 06.08.2020 (Annexure P-2).

On 28.02.2022, following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners facing trial in FIR No.1413 dated 18th December, 2017, registered for offences punishable under Sections 406, 420, 200, 199, 120-B of IPC, at Police Station Faridabad Central, District Faridabad.

Ld. Counsel for the petitioners inter alia contends that the present FIR is out come of the matrimonial discord between the parties. The matrimonial dispute has been set at rest as the parties

have got their marriage dissolved by mutual consent. He further contends that the matter already stands compromised vide compromise deed dated 6th August, 2020 (Annexure P-2).

Notice of motion for 28th March, 2022.

On the asking of the Court, Mr. Pardeep Prakash Chahar, Dy. Advocate General, Haryana accepts notice on behalf of respondent No.1- State.

Mr. Gaurav Gupta, Advocate appears and accepts notice on behalf of respondent No.2 and admits the factum of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Illaqa Magistrate/trial Court on 7th March, 2022.

On their doing so, the learned Illaqa Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter."

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

- "i. There are four accused persons namely Dharam Singh Pawar, Poonam Pawar, Bharat Singh Pawar and Rajeshwari Pawar mentioned/arrayed in the FIR, out of which accused Dharam Singh Pawar has already been expired on 31.08.2019 (Copy of death certificate attached).*
- ii. No accused is proclaimed offender in the FIR.*

iii. *Compromise effected between the parties appears to be genuine, voluntarily and without any coercion or undue influence.*

iv. *As per statement of IO, accused persons are not involved in any other FIR.*

v. *As per statement of IO, there is no other victim in the present FIR except the complainant Amit Mahajan.”*

Mr. Gourav Gupta, Advocate appears on behalf of respondent No. 2 and admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offences punishable under Sections 200, 199, 120-B are non-compoundable.

The Supreme Court has already dealt with this issue in ***Criminal Appeal No.1489 of 2012, titled as 'Ramgopal and another vs. The State of Madhya Pradesh'***. The operative part of the said judgment is reproduced below:-

“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. 1413 dated 18.12.2017 registered under Sections 406, 420, 200, 199 and 120-B IPC at Police Station Faridabad Central, District Faridabad and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

24.08.2022
Ajay Goswami

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No