

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21062-2022

Date of decision : 29.08.2022

Balwinder Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ajeet Pal Singh Pakka, Advocate
for the petitioners.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

Mr. Deshpreet Singh, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of DDR No.43 dated 15.08.2020 registered for the offences punishable under Sections 323 and 34 of IPC at Police Station Sadar Fazilka, District Fazilka in FIR No.282 dated 15.08.2020 registered for the offences punishable under Sections 323, 353, 186, 148 and 149 of IPC (Sections 341 and 427 of IPC added lateron) at Police Station Sadar Fazilka, District Fazilka, on the basis of panchayati compromise dated 29.03.2022 (Annexure P-2).

On 18.05.2022, the following order was passed:-

- “1. Notice of motion.
2. Mr. Bhupender Beniwal, AAG, Punjab, waives service on behalf of respondent No. 1-State.
3. Mr. Deshpreet Singh, Advocate puts his appearance on behalf of respondents No. 2 and 3, and,

files the power of attorney.

4. Before proceeding to quash DDR No. 43 dated 15.08.2020 in FIR No.282 dated 15.08.2020, registered at Police Station Sadar Fazilka, District Fazilka, it is deemed appropriate to make directions upon the Illaqa Magistrate concerned to, after summoning the petitioners, and, respondents No. 2 and 3, and, after his recording their respective testifications, with respect to the voluntariness, and also, with respect to the authenticity of the compromise drawn amongst them, as embodied in Annexure P-2, to make a report with respect to the compromise (supra).

5. The learned Magistrate is also directed to disclose in his report, (a) whether after completion of investigation, report under Section 173 Cr.P.C. has been filed; (b) whether charge has been drawn against the accused; (c) whether the prosecution evidence has commenced; and (d) whether all the concerned have signed the compromise deed.

6. The afore made report be ensured to be transmitted to this Court within three weeks.

7. For the afore purpose, list on 29.08.2022.

8. In view of the compromise, in respect whereof the learned Illaqa Magistrate is directed to transmit his report to this Court, therefore, he is restrained, till further orders, from taking up any further judicial proceedings, in respect of FIR (supra)."

Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Fazilka dated 28.07.2022 has been received. As per the report, the trial Court has recorded as follows:-

"xx xx xx

From the statements of complainant Santosh

Rani and injured Rajpal Singh and accused/petitioners Balwinder Singh, Krishan Singh, Ram Singh and Boota Singh alias Darshan Singh as well as the statement of I.O. ASI Piara Singh, the report of the undersigned is as under:-

a) That as per the statement of I.O., report under Section 173 Cr.P.C. has not been presented till date due to compromise between the parties.

b & c) That as report under Section 173 Cr.P.C. has not been presented, therefore neither charge has been drawn against the accused nor prosecution evidence has commenced.

d) That as per the statement of I.O., all the concerned parties have effected compromise and appeared before this Court for getting their statements recorded.”

Mr. Deshpreet Singh, Advocate appears for respondents No.2 and 3 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 353, 186, 148 and 149 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, present petition is allowed. DDR No.43 dated 15.08.2020 registered for the offences punishable under Sections 323 and 34 of IPC at Police Station Sadar Fazilka, District Fazilka in FIR No.282 dated 15.08.2020 registered for the offences punishable under Sections 323, 353, 186, 148 and 149 of IPC (Sections 341 and 427 of IPC added lateron) at Police Station Sadar Fazilka, District Fazilka and all proceedings subsequent thereto are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

29.08.2022
Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No