

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17670-2022

Date of decision : 18.08.2022

Umar Farooq @ Mohd Umar and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Pardeep Singh, Advocate
for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

Mr. Abdul Aziz, Advocate for
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.147 dated 14.10.2020 registered under Sections 323, 324, 341 and 506 IPC at Police Station, City-I, Malerkotla, (Now District Malerkotla), on the basis of compromise dated 01.04.2022 (Annexure P-2).

On 29.04.2022, 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.147 dated 14.10.2020 under Sections 323, 324, 341 and 506 of the IPC registered at Police Station, City-I, Malerkotla (Now District Malerkotla) (Annexure P-1) and all consequential proceedings arising therefrom on the basis of compromise dated 01.04.2022 (Annexure P-2) effected between the parties.

Notice of motion.

At this stage, Ms. A. K. Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Abdul Aziz, Advocate, appearing on behalf of respondent No.2 admits the execution of compromise dated 01.04.2022 (Annexure P-2) and filed his memo of appearance in the Court today which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 25.05.2022 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 18.08.2022 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 Sub Divisional Judicial Magistrate, Malerkotla has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Report is submitted specifying the following:

1. There are four persons namely Umar Farooq @ Mohd. Umar, Sekh, Abdul and Liaqat Ali arrayed as accused in the FIR. But complainant as well as Investigating Officer specifically stated that accused Sekh and Abdul is the same person, thus there are total three accused namely Umar, Sekh @ Abdul and Liaqat Ali in the present FIR.
 2. As per statements of accused and IO, accused have never been declared proclaimed offender.
 3. As per record, only FIR is received yet and challan has not been presented.
 4. As per statements of parties, the compromise is genuine, voluntarily and without any coercion or undue influence.
 5. The compromise has been effected with all the accused persons with all the complainants/complainant.
- Submitted please.”

Mr. Abdul Aziz, 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 324 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.147 dated 14.10.2020 registered under Sections 323, 324, 341 and 506 IPC at Police Station, City-I, Malerkotla, (Now District Malerkotla) and all proceedings arising therefrom, are, hereby, quashed.

(PANKAJ JAIN)
JUDGE

18.08.2022

Dinesh

Whether speaking/reasoned
Whether Reportable :

Yes
No