

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

CRM-M-22609-2022

Date of Decision: 24.08.2022

GURTEJ PAL SINGH AND ANR.

...Petitioners

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Naveen Bawa, Advocate
for the petitioners.

Mr. Gurdarshan Singh Sidhu,
Assistant AG Punjab.

PANKAJ JAIN J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No. 22 dated 20.01.2021 registered under Sections 323, 341, 506, 382 and 34 IPC at Police Station Salem Tabri, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise dated 25.02.2022 (Annexure P-2).

On 23.05.2022, following order was passed:

By filing this petition, quashing of FIR No.22 dated 20.01.2021 under Sections 323, 341, 506, 382 and 34 of IPC registered at Police Station Salem Tabri, District Ludhiana and all other consequent proceedings arising therefrom has been sought on the basis of compromise dated 25.02.2022 arrived at between the parties.

Notice of motion.

Mr. B.S. Sewak, AAG, Punjab. accepts notice on behalf of respondent No.1-State.

Parties may appear before concerned trial Court/Duty Magistrate on 01.06.2022 or on any other date convenient to the said

Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with his report:

- i) regarding genuineness and voluntary nature of the compromise;*
- ii) whether all the accused/petitioners are appearing before the Court or are on bail; and*
- iii) whether any other proceeding is pending against the accused/petitioners.*

Adjourned to 24.08.2022."

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

"3. It is humbly submitted that as per record available with the court of undersigned there are only two accused namely Gurtej Pal Singh and Karamjit Singh who are arrayed as accused in FIR No. 22 dated 20.01.2021 registered under Section 323/341/506/382/34 IPC, Police Station Salem Tabri, Ludhiana. These accused have been released on bail and both are appearing before the Court. These accused persons have not declared as proclaimed offender in the above said FIR. It is further submitted that the accused Karamjit Singh is not involved in any other case and the three criminal case are pending against accused Gurtej Pal Singh. Challan has been presented in the present FIR.

4. It is, further humbly submitted that after going through the statements of parties so recorded, I am of the considered view that the compromise between the parties is valid, genuine, voluntary and without any coercion or undue influence."

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 382 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. 22 dated 20.01.2021 registered under Sections 323, 341, 506, 382 and 34 IPC at Police Station Salem Tabri, District Ludhiana 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