

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21951-2022
Date of decision : 22.08.2022

Shamsher Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Varsha Sharma, Advocate
for the petitioners.

Mr. Pankaj Khullar, AAG, Punjab.

Mr. Abhinav Prashar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0026 dated 10.04.2022 registered for the offences punishable under Sections 323, 324, 341, 506, 148 and 149 IPC (Section 307 IPC and Sections 2/27 of Arms Act were added later on) at Police Station Khanauri, District Sangrur, on the basis of compromise deed dated 08.05.2022 (Annexure P-3).

On 26.05.2022, the following order was passed:-

“By filing this petition, quashing of FIR No.0026 dated 10.04.2022 under Sections 323,324,341,506,148,149 IPC (Section 307 IPC and Section 25/27 of Arms Act were added later on) registered at P.S Khanauri, District Sangrur and all other subsequent proceedings arising therefrom has been sought on the basis of compromise.

Learned counsel for the petitioners submits that

in the alleged incident, three injuries were allegedly sustained by the complainant, which are all simple being caused with blunt weapon.

Parties may appear before concerned trial Court/Illaqa Magistrate on 01.06.2022 or on any other date convenient to trial Court/Illaqa Magistrate and get their statements recorded with regard to the compromise. The original compromise shall be produced before trial Court/Illaqa Magistrate. In the event of their statements being recorded, trial Court/Illaqa Magistrate will send copies of the same to this Court before the next date of hearing along with its 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 22.08.2022.”

Pursuant to the aforesaid order, report from SDJM, Moonak dated 29.06.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. The accused are impleaded in the present FIR are party to the compromise.
2. None of the accused or Juvenile have been declared as proclaimed offender.
3. The compromise between the parties is genuine, voluntarily and out of free will of the party.
4. No other criminal case are pending against the accused and they are not involved in any other FIR.

5. There is only one complainant namely Surinder Kumar son of Bhagat Ram, resident of Shiv Colony Bye Pass Road Khanauri, District Sangrur.

From the statements, it appears that compromise is genuine and has been effected between the parties without any pressure and with their free will and without any coercion or undue influence.”

Mr. Abhinav Prashar, 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 324 and 307 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. FIR No.0026 dated 10.04.2022 registered for the offences punishable under Sections 323, 324, 341, 506, 148 and 149 IPC (Section 307 IPC and Sections 2/27 of Arms Act were added later on) at Police Station Khanauri, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

22.08.2022

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Whether speaking/reasoned Yes

Whether Reportable : No