

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

CRM-M-24699-2022

Date of decision : 08.09.2022

Major Singh and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Yashveer Kharb, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab
for respondent No.1-State.

Mr. Munish Garg, Advocate
for respondents No.2 to 14.

PANKAJ JAIN, J. (ORAL)

The petitioners have approached this Court seeking quashing of Rapat No.21 dated 21.10.2017, registered for the offences punishable under Sections 341, 323, 506, 148, 149 of the Indian Penal Code, 1860 (for short, 'the IPC') (Annexure P-1) in case/FIR No.147 dated 21.10.2017 under Sections 323, 427, 435, 436, 447, 506, 511, 452, 148, 149 of the IPC, at Police Station Barnala, District Barnala (Annexure P-2) on the basis of compromise dated 18.04.2022 (Anneuxre P-3) .

2. On 02.06.2022, the following order was passed :-

“This is a petition under Section 482 Cr.P.C. for quashing of Rapat No. 21 dated 21.10.2017 under Sections 341, 323, 506, 148 and 149 IPC in case of FIR No. 147 dated

21.10.2017 under Sections 323, 427, 435, 436, 447, 506, 511, 452, 148 and 149 IPC registered at Police Station Barnala, District Barnala and all subsequent proceedings arising therefrom on the basis of compromise dated 18.4.2022.

Notice of motion.

Mr. Amit Mehta, Sr. DAG, Punjab and Mr. Munish Garg, Advocate accept notice on behalf of the State and the complainant, respectively.

The parties are directed to appear before the Illaqa Magistrate/trial court for recording their statements with regard to the compromise on 04.07.2022.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

- (i) Number of persons arrayed as accused in the complaint.
- (ii) Whether any accused is proclaimed offender and
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence.

List on 15.07.2022. ”

3. Pursuant to the aforesaid order, report has been received from Addl. Chief Judicial Magistrate, Barnala, who has reported as under :-

“From the above said statements before and as per the record available with this Court, I am to make the requisite report as follows:

- 1. The present case is a case of version and cross-version.*
- 2. The number of persons arrayed as accused in the cross case is eleven, namely, Major Singh, Sukhdev Singh, Satnam singh, Harbans Singh, Sukhwinder Singh, Balwinder Singh*

alias Nirbhai Singh, Baljinder Singh, Bahadur Singh, Nirbhai Singh, Sukhchain Singh and Ajaib Singh.

Of these eleven accused nine accused, namely, Major Singh, Sukhdev Singh, Satnam Singh, Harbans Singh, Sukhwinder Singh, Balwinder Singh alias Nirbhai Singh, Baljinder Singh, Bahadur Singh, Nirbahi Singh are petitioners Nos.1-9 before the Hon'ble High court. The proceedings against the accused-Ajaib Singh stand abated, being no more. The accused-Sukhchain Singh is declared a 'Proclaimed Person' on dated 16.07.2022.

3. The accused-Sukhchain Singh (non-petitioner is declared a 'Proclaimed Person' on dated 16.07.2022 in the matter of the cross-versin case.

4. The compromise between the parties is genuine voluntary and without any coercion or undue influence.”

4. The aforesaid report reveals that one of the accused namely Sukhchain Singh has been declared as Proclaimed Person on 16th of July, 2017.

5. Ld. Counsel for the petitioners relies upon the order passed by Co-ordinate Benches of this Court in **CRM-M-45963-2019** titled as **'Bhedda @ Ravi Khanna and others vs. State of Punjab and another'** and **CRM-M-10416-2022** titled as **'Baldev Singh and others through SPA vs. State of Punjab and another'** to submit that even in a case where one of the accused has been declared Proclaimed Offender and the complainant has compromised the matter with the rest, the proceedings can be quashed on the basis of compromise.

6. Ld. Counsel appearing for respondents Nos.2 to 4 admits the fact of the parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the present petitioners are quashed.

7. However, Ld. State Counsel submits that though as per the report the parties have compromised but the fact remains that offences punishable under Sections 148, 149 of the IPC, are non compoundable.

8. In response thereto, Ld. Counsel for the petitioners has relied 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 the same 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.”

9. Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, Rapat No.21 dated 21.10.2017, registered for the offences punishable under Sections 341, 323, 506, 148, 149 of the IPC (Annexure P-1) in case/FIR No.147 dated 21.10.2017 under Sections 323, 427, 435, 436, 447, 506, 511, 452, 148, 149 of the IPC, at Police Station Barnala, District Barnala (Annexure P-2) and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioners only.

11. However, it is made clear that the proceedings *qua* accused-Sukhchain Singh, who has been declared as Proclaimed Person, shall continue.

10. Accordingly, the petition is allowed.

September 08, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No