

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

**CRM-M-44505-2018
Date of decision : 31.08.2022**

Saroop Singh @ Rinku

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ishan Thakur, Advocate for
Mr. Ithlesh Kausal, Advocate
for the petitioner.

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

Mr. J.S. Khiva, Advocate for
Ms. Amanpreet Kaur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

The petitioner has approached this Court seeking quashing of FIR No.11 dated 18.02.2018, registered for the offences punishable under Sections 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Prevention of Human Smuggling Act, 2012, at Police Station Dhilwan, District Kapurthala (Annexure P-2) on the basis of Compromise Deed dated 28.03.2018 (Anneuxre P-3) .

2. On 02.09.2019, the following order was passed :-

“Present petition is for quashing of FIR No.11 dated
18.02.2018 under Section 420 of IPC and Section 13 of

Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Dhilwan, District Kapurthala, on the basis of compromise.

Learned counsel for respondent No.2 affirms the factum of compromise.

Let the parties appear before the trial Court/Area Judicial Magistrate on 18.09.2019 for getting their statements recorded with regard to the compromise. The learned trial Court is directed to indicate (i) how many total accused are facing the trial, (ii) whether any of the accused was declared proclaimed offender at any stage of trial (iii) status/stage of the trial/case, (iv) to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and (v) to send its report to this Court through District and Sessions Judge, before the next date of hearing.

Adjourned to 04.11.2019. ”

3. Pursuant to the aforesaid order, report has been received from Judicial Magistrate 1st Class, Kapurthala, who has reported as under :-

“In view of the statement so made by complainant, I am of the considered opinion that parties have entered into compromise voluntarily and without any threat, coercion or pressure and their compromise is genuine one. The statement of complainant, accused and Sh. Davinder Singh, DSP and copy of Aadhar Card of complainant and accused and power of attorney of both counsels are enclosed herewith.”

4. Learned counsel appearing for respondents No.2 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.

5. However, Ld. State Counsel submits that though as per the report the parties have compromised but the fact remains that offence punishable under Section 13 of Punjab Prevention of Human Smuggling Act, 2012 is non compoundable.

6. In response thereto, Ld. Counsel for the petitioner 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.”

7. Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, FIR No.11 dated 18.02.2018, registered for the offences punishable under Sections 420 of the Indian Penal Code, 1860 and Section 13 of Punjab Prevention of Human Smuggling Act, 2012,

at Police Station Dhilwan, District Kapurthala (Annexure P-2) and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioner.

8. Accordingly, the petition is allowed.

August 31, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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