

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26953-2021

Date of decision : 05.09.2022

Harmandeep Singh @ Harman Singh and others Petitioners

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Kapil Kumar, Advocate for
Mr. Baljeet Beniwal, Advocate
for respondents No.2 to 8.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.63 dated 26.04.2021, registered for the offences punishable under Sections 323, 341, 452, 427, 506, 365 and 511 of IPC at Police Station Nangal, District Roopnagar, on basis of compromise deed dated 06.07.2021 (Annexure P-3).

On 10.03.2022, the following order was passed:-

“CRM-42841-2021

This is an application for impleading Harish @ Hark Saud as party-respondent No.8.

Heard.

For the reasons mentioned in the application, the same is allowed. Mr. Harish @ Hark Saud (injured) is impleaded as party- respondent No.8. Amended memo of parties, annexed with the application, is taken on record.

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Learned counsel refers to Annexure P-3 to contend that a compromise has been effected between the parties and prays for quashing of FIR No. 63 dated 26.04.2021, registered under Sections 323, 341, 452, 427, 506, 365 and 511 IPC, at Police Station Nangal, District Roopnagar.

Notice of motion for 05.09.2022.

At this stage, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent-State, whereas Mr. Baljeet Beniwal, Advocates causes representation on behalf of respondent Nos.2 to 8 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on or before 11.07.2022 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

1. Number of persons arrayed as accused in FIR.
2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

A copy of the report be also sent through fax to the Registrar Judicial of this Court.”

Pursuant to the aforesaid order, report from JMJC, Rupnagar

dated 05.05.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. that FIR No.63 dated 26.04.2021 u/s 323, 341, 452, 427, 506, 365, 511 IPC registered at PS Nangal, District Rupnagar got registered on the statement of complainant Mahendra Singh Godara against accused Harmandeep Singh @ Harman Singh, Balbir Singh and Gagandeep Singh @ Gagan Singh. Therefore, three of the accused namely Harmandeep Singh @ Harman Singh, Balbir Singh and Gagandeep Singh @ Gagan Singh are arrayed as accused in present case.
2. that as per statement of ASI Gurnam Singh as well as statements recorded by accused party, none of the accused have been declared proclaimed offender.
3. that on examination of statements of both, complainant party as well accused party, the compromise effected between them appears to be bonafide, voluntary, genuine, lawful and without any kind of pressure, undue influence, coercion and fear from any side.
4. that as per the Statement of ASI Gumam Singh Belt No.364/R P.S. Nangal Distt. Rupnagar recorded on 07.04.2022 stating that FIR No.63 dated 26.04.2021 for offences U/S 323, 341, 452, 427, 506, 365, 511 IPC registered at PS Nangal, District Rupnagar, got registered against accused Harmandeep Singh @ Harman Singh, Balbir Singh and Gangandeep Singh @ Gagan Singh, all residents of village Bhagoran, Tehsil and District SBS Nagar. As per statement, no other case or proceedings is pending against either of the accused.
5. that as per statement of ASI Gurnam Singh Belt No.364/R, Investigating Officer, in FIR No.63 dated

26.04.2021 U/S 323, 341, 452, 427, 506, 365, 511 IPC, PS Nangal, there is only one complainant/victim namely Mahendra Singh Godara in present FIR. However, on perusal of FIR it transpires that Dinesh Chaudhary s/o Pukhraj, Jiwan Dass Swami s/o Purkha Dass Swami, Harish s/o Dharam Saud and Navrattan Jaat s/o Dhungar Ram are victims in the present case along with complainant.”

Mr. Kapil Kumar, Advocate for Mr. Baljeet Beniwal, Advocate, appears for respondents No.2 to 8 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 452, 511 and 365 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.63 dated 26.04.2021, registered for the offences punishable under Sections 323, 341, 452, 427, 506, 365 and 511 of IPC at Police Station Nangal, District Roopnagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

05.09.2022

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No