

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

CRM-M-27222-2021

Date of decision : 06.09.2022

Ankita @ Roy

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Nasir Jamal, Advocate for
Mr. Salman Ahmed, Advocate
for the petitioner.

Mr. R.K. Ambavta, Asstt. Advocate General, Haryana
for respondent No.1/State.

Mrs. Tabassum Arshad, Advocate
Mr. Mohammad Arshad, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

The petitioner has approached this Court seeking quashing of case FIR No.0411 dated 24.08.2020, registered for the offences punishable under Sections 66-C, 67 & 67-A of the Information Technology (Amendment) Act 2008 (for short, 'the I.T. Act'), at Police Station Suraj Kund, District Faridabad (Annexure P-1) on the basis of compromise dated 01.07.2021 (Annexure P-2).

2. On 19.07.2021, the following order was passed :-

“Learned counsel refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No. 0411 dated 24.08.2020 registered under Sections 66-C, 67 & 67-A of Information Technology (Amendment)

Act 2008 at Police Station Suraj Kund, District Faridabad.

Notice of motion for 26.11.2021.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel.

At this stage, Mr. Mohammad Arshad causes representation on behalf of respondent No. 2 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on or before 24.09.2021 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 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.

Adjourned to 26.11.2021.”

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

“It is pertinent to mention here that in the present case, challan has already been filed and the same is pending in the court of undersigned for consideration on charge. File further reveals that

there is no accused, who is proclaimed offender in this case. Report regarding involvement of accused Nutan Ray @ Ankita Yadav also called from the investigating officer SI Satbir Singh, who suffered statement, wherein it is reported that except the present accused Nutan Ray @ Ankita Yadav there is no other accused in this case and she is not involved in any other case. He further reported that there is no accused who has been declared proclaimed offender in this case and there is only one victim/complainant in this case namely Rohit Ranjan. So, the pointwise reply, as sought by the Hon'ble High Court, is as under :

- i. There is only one accused Nutan Ray @ Ankita Yadav in this case, who is on bail.*
- ii. No accused has been declared proclaimed offender in this case.*
- iii. Compromise is genuine and voluntary and without any coercion or undue influence.*
- iv. Accused is involved in any other case except present one.*
- v. Statement of the investigating officer SI Satbir Singh has been recorded as per which only one victim/complainant in this case namely Rohit Ranjan Pathak."*

4. Learned counsel appearing for respondent 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 petitioner are quashed.

5. However, Ld. State Counsel submits that though as per the report the parties have compromised but the fact remains that offences punishable under Sections 67, 67-A of the I.T. Act, are 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.0411 dated 24.08.2020, registered for the offences punishable under Sections 66-C, 67 & 67-A of the I.T. Act 2008, at Police Station Suraj Kund, District Faridabad (Annexure P-1) and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioner.

8. Accordingly, the petition is allowed.

September 06, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No