

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.36121 of 2022
Date of Decision: 14.09.2022

Ajay and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Harvinder Pal Singh Ghuman, Advocate,
for the petitioners.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Vipul Goel, Advocate,
for Mr. Lakshay Goel, Advocate,
for respondents No.2 & 3.

PANKAJ JAIN, J. (Oral)

The petitioners have approached this Court seeking quashing of case FIR No.198 dated 17.08.2021 under Sections 323, 452, 379-B, 34, 506, 427 of the Indian Penal Code, 1860 (for short, the IPC), at Police Station Kotwali Nabha, Tehsil Nabha, District Patiala (Annexure P-1) on the basis of compromise dated 27.06.2022 (Annexure P-2) .

2. On 17.08.2022, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.198 dated 17.08.2021, registered for the offences punishable under Sections 323, 452, 379-B, 34, 506, 427 of the Indian Penal Code, 1860 at Police Station Kotwali Nabha, Tehsil Nabha, District Patiala.

Learned Counsel for the petitioners contends that the matter already stands compromised vide Compromise dated 27.06.2022 (Annexure P-2).

Notice of motion for 14.09.2022.

On the asking of the Court, Ms. Amarjit Kaur

Khurana, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Lakshay Goel, Advocate appears and accepts notice on behalf of respondents No.2 and 3 and admits the factum of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/Trial Court on 30.08.2022. On their doing so, the learned Illaqa Magistrate/Trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the 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.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/Trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3. Pursuant to the aforesaid order, report has been received from Sub Divisional Judicial Magistrate, Nabha, District Patiala, who has reported as under :-

“1. That four persons namely Ajay, Tony, Ravi and Katu Ram have been arrayed as accused in the present FIR.

2. As per statement of IO, no accused has been

declared as proclaimed offender in the present case.

3. *The compromise effected between both the parties is genuine, voluntary and without any coercion or undue influence.*

4. *As per statement of IO, no other criminal case is pending against the accused persons namely Ajay, Tony, Ravi and Katu Ram.*

5. *Statement of IO ASI Gursewak Singh No.1517/PTA Police Station Kotwali, Nabha also recorded to the effect that only one person namely Rishu Mittal is the complainant/victim in the present FIR.”*

4. Ld. Counsel appearing for respondents Nos.2 & 3 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 452 of the IPC, are non compoundable.

6. 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."

7. Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, FIR No.198 dated 17.08.2021 under Sections 323, 452, 379-B, 34, 506, 427 of the Indian Penal Code, 1860 (for short, the IPC), at Police Station Kotwali Nabha, Tehsil Nabha, District Patiala (Annexure P-1) and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioners.

8. Accordingly, the petition is allowed.

14.09.2022
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No