

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

**CRM-29453-2022 in/and
CRM-M No.40977 of 2021
Date of decision : 22.08.2022**

Surinder Singh

....Petitioner

Versus

State of U.T., Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Manbir S. Batth, Advocate
for the applicant/petitioner.

Mr. Shashank Bhandari, Addl. Public Prosecutor U.T., Chd.
for respondent No.1/State.

Mr. S.S. Gill, Advocate
for respondent No.2/complainant.

PANKAJ JAIN, J. (ORAL)

CRM-29453-2022

Prayer in the instant application is for preponement of the date of hearing in the main case.

In view of the averments recorded in the application, the same is allowed and the main case is taken up on Board today itself for consideration.

CRM-M No.40977 of 2021

The petitioner has approached this Court seeking quashing of FIR No.79 dated 11.04.2020, under Sections 279/337/338 of the Indian Penal Code, 1860, registered at Police Station Sector 36, Chandigarh

(Annexure P-1) on the basis of Compromise dated 15.09.2021 (Anneuxre P-2) .

2. On 30.09.2021, the following order was passed:-

“The matter has been taken up through video conferencing.

Notice of motion.

Mr. Shashank Bhandari, Addl. P.P., U.T., Chandigarh and Mr. Haripreet Singh, Advocate accept notice on behalf of respondents No.1 and 2, respectively.

Learned counsel for the petitioner undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.79 dated 11.04.2020 registered under Sections 279/337/338 IPC at Police Station Sector 36 Chandigarh on the strength of a written compromise dated 15.09.2021 (Annexure P-2) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 08.10.2021 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Illaqa Magistrate/Trial Court would furnish to this Court its report along with the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been

declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 25.01.2022.”

3. Pursuant to the aforesaid order, report dated 10th November, 2021 has been received from Judicial Magistrate 1st Class, Chandigarh, who has reported as under :-

“After going through the statements given by complainant Pawan Kumar, accused Surinder Singh and Investigating Officer SI Harbans Singh, No.1410/CHG in the Court, the following report is submitted as desired by your goodself vide order dated 30.09.2021 :-

(1) On the basis of statement given by parties, this Court is of the considered view that compromise between complainant Pawan Kumar and accused Surinder Singh is genuine, it has been effected voluntarily without any pressure, coercion or undue influence from any quarter. However, as per FIR, one person namely Manjeet Kumar has sustained injuries in the accident. He has not been impleaded as party in CRM-M 40977 of 2021 pending before Hon'ble Punjab and Haryana High Court.

(2) FIR No.79 dated 11.04.2020, u/s 279, 337, 338 IPC, at PS - 36, Chandigarh has been registered against one accused person i.e. Surinder Singh s/o Sh. Avtar Singh. Accused person involved in occurrence has been impleaded as party in petition bearing CRM-M-40977-2021 pending before Hon'ble Punjab and Haryana High Court.

(3) None of the accused person has ever been declared

proclaimed offender. No any other criminal case is pending against accused person.

This report along with statements of parties and annexures is submitted as desired by your goodself vide order dated 30.09.2021 passed in CRM-M No.40977 of 2021.”

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 offence punishable under Sections 279 of the IPC 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 aforesaid facts, the present petition is allowed. FIR No.79 dated 11.04.2020, under Sections 279/337/338 of the Indian Penal Code, 1860, registered at Police Station Sector 36, Chandigarh (Annexure P-1) and all proceedings subsequent thereto are hereby quashed *qua* the petitioner.

August 22, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No