

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

CRM-M-33610-2019

Date of decision : 31.08.2022

Aman Masih and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.S. Randhawa, Advocate
for the petitioners.

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

Mr. J.S. Mehal, Advocate for
Mr. Gagandeep S. Bajwa, Advocate
for respondents No.2 to 5.

PANKAJ JAIN, J. (ORAL)

The petitioners have approached this Court seeking quashing of FIR No.0034 dated 07.06.2019, registered for the offences punishable under Sections 452, 323, 427, 34 of the Indian Penal Code, 1860 (Sections 324, 325 IPC added later on), at Police Station Tibber, District Gurdaspur (Annexure P-1) on the basis of compromise dated 13.07.2019 (Annexure P-2) .

2. On 20.08.2019, the following order was passed :-

*“Contends that matter has been compromised between
the parties.*

Notice of motion.

On the asking of the Court, Mr. Harpreet Singh

Multani, AAG, Punjab accepts notice on behalf of respondent No.1/State. Mr. Gagandeep Singh Bajwa, Advocate, who is present in the Court, has filed memo of appearance on behalf of respondent Nos.2 to 5. The same is taken on record. He acknowledged the factum of compromise arrived at between the parties.

Requisite number of copies of the petition be supplied to learned Counsel for the respondents during the course of the day.

Petitioners will file their respective affidavits before learned trial Court that there is no other criminal case pending against them and also give the details of any other FIR(s), if any, which have already been quashed on the basis of compromise.

*In view of above, let the parties appear before the Court of learned Illaqa Magistrate/trial Court on **10.09.2019** to record their statements with reference to the compromise, if any, entered into between them.*

Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof?

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?

(vi). whether any of the petitioner(s) is/are previous convict or not?

List before this Court on 30.10.2019 for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance. ”

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

“(1) The statements of the parties ar bona fide and as all the parties to the petition have appeared for recording their statements, therefore, it appears that the compromise is without any pressure or coercion.

(2) As per statements of parties, the compromise is genuine and valid.

(3) As per the statement of Investigating Officer, all the accused, complainant and injured are party to the compromise.

(4) As per the statement of Investigation Officer, there is no other case pending against either of the parties.

(5) As per statement of Investigating Officer, no person involved in this case/dispute has been declared a proclaimed offender.

(6) As per statement of Investigating Officer, noe of the petitioner(s) is a previous convict.”

4. Learned counsel appearing for respondents No.2 to 5 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 offences punishable under Sections 452 and 324 of the IPC, 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.0034 dated 07.06.2019, registered for the offences punishable under Sections 452, 323, 427, 34 of the IPC (Sections 324, 325 IPC added later on), at Police Station Tibber, District Gurdaspur (Annexure P-1) and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioners.

8. Accordingly, the petition is allowed.

August 31, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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