

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

CRM-M-32655-2019

Date of Decision : 29.08.2022

Sulakhan Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vipin Mahajan, Advocate
for the petitioners.
Mr. Madhur Sharma, AAG, Punjab.

Mr. Sunil Agnihotri, Advocate
for respondent No.1.

PANKAJ JAIN, J(ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.47 dated 05.08.2015 registered under Sections 323, 324, 326, 342, 148, 149 IPC at Police Station, Bhaini Mian Khan, District Gurdaspur, on the basis of compromise dated 05.05.2019 (Annexure P-2).

On 17.02.2020, the following order was passed:-

“Prayer made in the petition is for quashing of FIR No.47 dated 5.8.2015 under Sections 323, 324, 326, 342, 148, 149 IPC, registered at Police Station Bhaini Mian Khan, District Gurdaspur, on the basis of compromise.

List again on 14.5.2020

In the meantime, the parties are directed to appear before the

Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 30 days from today. The Illaqua Magistrate/trial Court 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;
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 FIR or not; and
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.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Gurdaspur has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

- “(1) As per statement of Investigating Officer, there are 05 (five) persons arrayed as accused in FIR.
- (2) No accused have been declared as Proclaimed offender in this case as per record.
- (3) All the parties to the petition have appeared for recording their statements, therefore, it appears that the compromise is genuine, voluntary and out of free will of the parties.
- (4) As per statement of Investigating Officer no other case is pending against either of the parties.
- (5) There is only one victim/complainant person namely Paramjit Singh in the present case FIR. The complainant Paramjit Singh through his special power of attorney/father Sh. Mangal Singh has appeared and made his statement in support of the compromise.

The report is accordingly submitted please.”

Mr. Sunil Agnihotri, Advocate, appears for respondent No.2, admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto

against the petitioners are quashed.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offences punishable under Sections 324, 326, 148 and 149 of the IPC is 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.47 dated 05.08.2015 registered under Sections 323, 324, 326, 342, 148, 149 IPC at Police Station, Bhaini Mian Khan, District Gurdaspur, and all proceedings subsequent thereto are hereby quashed qua petitioners.

29.08.2022
mamta

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No