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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36751-2019
Date of Decision: 22.08.2022

SANGEETA GOSWAMI AND OTHERS

.....Petitioners

VS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. B.P.S. Thakur, Advocate
for the petitioners

Mr. Pankaj Khullar, Assistant A.G., Punjab

Mr. Randhir Singh Manhas, Advocate
for the respondent No.2

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No. 57 dated 12.06.2019 registered for the offences punishable under Sections 406, 420, 328 IPC, Police Station Division No.2, District Pathankot, on the basis of compromise dated 20.08.2019 (Annexure P.2).

On 02.09.2019, the following order was passed:-

“Learned counsel for petitioners submits that the parties have compromised the matter vide compromise copy of which has been placed on record as Annexure P-2.

Notice of motion.

Mr. Randhir Singhy Manhas, Advocate has appeared and filed power of attorney on behalf of respondent no.2.

Parties may appear before the concerned Illaqa/Duty Magistrate on 30.9.2019 or on any other

date convenient to the Illaqa/Duty Magistrate and get their statements recorded with regard to the compromise. The original compromise shall be produced before the Illaqa/Duty Magistrate. In the event of their statements being recorded, Illaqa/Duty Magistrate will sent copies of the same to this Court with his report :

(i) regarding genuineness and voluntary nature of the compromise;

(ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

(iii) whether accused/petitioners are facing trial/investigation/ enquiry in any other criminal case/proceedings.

Report be awaited for 20.1.2020.”

Pursuant to the aforesaid order, report from Judicial Magistrate Ist Class, Pathankat dated 09.10.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

After going through the statements and the file, I am satisfied that both the parties have got recorded their statements voluntarily with regard to the compromise. It is submitted that:-

- i. The parties got recorded their statements voluntarily and out of free will, with regard to the compromise and is genuine, and without any coercion or undue influence, for which I have even asked questions to parties, to which they have said compromise is as per their free will.*
- ii. Accused/petitioner is in custody and produced before the Court by jail authorities.*
- iii. As per statement of complainant no other case is pending against accused.”*

Mr. Randhir Singh Manhas, Advocate appears for respondent No.2 and admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 328 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. 57 dated 12.06.2019 registered for the offences punishable under Sections 406,

420, 328 IPC, Police Station Division No.2, District Pathankot and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

22.08.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No