

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

**CRM-M-No.939 of 2021  
Date of Decision:- 25.05.2022**

Amrik Singh

....Petitioner

Vs.

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Pranav Handa, Advocate  
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. APS Tung, Advocate for  
Mr. Pranav Handa-II, Advocate  
for respondent No.2.

**KARAMJIT SINGH, J.**(Oral)

The present petition has been filed by the petitioner for quashing of order dated 03.03.2020 (P-1) passed by the Court of Additional Sessions Judge, Jalandhar in a Criminal Appeal bearing No.873/2017 titled as “Amrik Singh Vs. State of Punjab and others, vide which the application for compounding of offence under Section 408 IPC in FIR No.171 dated 23.08.2012 registered at P.S. Phillaur,

Jalandhar Rural, filed by respondent No.2, the Nangal Cooperative Agriculture Service Society Nangal (in short 'respondent No.2-Cooperative Society') has been dismissed.

The brief facts of the case are that petitioner Amrik Singh was working as a Secretary in respondent No.-2-Cooperative Society and he embezzled amount of Rs.2,12,064/- of the aforesaid cooperative society and the matter was reported to Assistant Registrar of Cooperative Societies and consequently, FIR No.171, dated 23.08.2012 under Section 408 IPC, was registered against the petitioner in Police Station Phillaur (Jalandhar Rural).

On completion of investigation challan was presented and charges were framed under Section 408 IPC against the petitioner, to which he did not plead guilty. On conclusion of trial the petitioner was convicted and sentenced to imprisonment under Section 408 IPC by the trial Court. Being aggrieved, the petitioner filed appeal which is pending in the court of Additional Sessions Judge, Jalandhar. During the pendency of said appeal the respondent No.2-Cooperative Society filed an application for permission to compound the offence, on the ground that the embezzled amount has already been deposited by the petitioner and now nothing is due towards petitioner. However, the request for compounding of offence was declined by the aforesaid Appellate Court vide impugned order dated 3.3.2020. The operative part of the same is reproduced herein below:-

*“...4. I have considered the rival submissions and am of the opinion that offence cannot be compounded. Allegations against appellant-convict are regarding embezzlement of Rs.2,12,064/-. Thereafter, an arbitration award was also passed against him and in pursuance thereof, as per society, amount has been deposited. But this Court cannot allow compounding as compounding request is not made by the complainant. Sh. Santokh Lal, PCS, Assistant Registrar, Cooperative Societies, Phillaur or by the officer of the same rank, but by the society itself. Assistant Registrar was having supervisory role over the affairs of said cooperative society. Only he or his superior officer can compound the offence. Society cannot compound as its own. Deposit of amount by a person, who allegedly embezzled the amount, does not wipe out the alleged offence. Hence, deposit of amount has no consequences, nor request for compounding is made by any competent person. So request to compound is disallowed and dismissed and appellant is advised to address the arguments on merits. Case shall be heard at its due turn. Adjourned to 06.05.2020 for arguments.”*

The aforesaid order dated 3.3.2020 is under challenge in the present petition.

The counsel for the petitioner and counsel for respondent No.2-Cooperative Society submitted that the amount which was embezzled by the petitioner, belongs to respondent No.2-Cooperative Society. When the aforesaid embezzlement was detected, the matter was immediately reported to the senior officials including Assistant Registrar Cooperative Societies, who further recommended for registration of FIR in the present case. Resultantly FIR No.171 dated 23.8.2012 under Section 408 IPC was registered against the petitioner with regard to embezzlement of Rs.2,12,064/-. The counsel further contends that undoubtedly the petitioner was convicted by the trial Court and the appeal filed by the petitioner against the said judgment is pending before the Appellate Court. Both the counsel further submits that aforesaid amount has already been deposited by the petitioner and both the parties have given their consent to compound the offence. The counsel further contends that amount in question was not belonging to Assistant Registrar Cooperative Societies, on whose instance the aforesaid FIR was registered. That the embezzled amount belonged to respondent No.2 Cooperative Society and it has effected compromise with the petitioner. That affidavit of Sanjeev Kumar Bhandari, Secretary of respondent No.2-Cooperative Society dated 19.08.2021 has been produced in the present petition to establish the fact of compromise which has been effected between the parties. Both the counsel further submit that the

offence under Section 408 IPC is compoundable and further made prayer that permission be given to the party to compound the offence.

I have considered the aforesaid submissions made by counsel for the parties.

Undoubtedly, the petitioner while working in respondent No.2-Cooperative Society embezzled amount of Rs.2,12,064/- and the matter was reported by the said cooperative society to Assistant Registrar Cooperative Societies and he recommended for registration of the FIR and consequently, FIR No.171 dated 23.08.2012 under Section 408 IPC was registered against the petitioner in police station Phillaur. No doubt, in the said FIR, Assistant Registrar Cooperative Society was depicted as a complainant, however, actually the aforesaid embezzled amount belonged to respondent No.2-Cooperative Society.

It has come on record that petitioner has deposited the aforesaid embezzled amount with respondent No.2-Cooperative Society and in this regard No Objection certificate, Annexure P-6, was issued by respondent No.2 in favour of the petitioner. Even the Secretary of respondent No.2-Cooperative Society has submitted his affidavit dated 19.08.2021 with regard to the aforesaid compromise which has been effected between the parties. Respondent No.2-Cooperative Society does not wish to pursue the criminal proceedings against the petitioner. It has also come on record that respondent No.2-Cooperative Society has got no objection if the offence

punishable under Section 408 IPC is compounded. As per the provisions of Section 320 Cr.P.C., offence under Section 408 IPC is compoundable at the instance of owner of the property in respect of which the breach of trust has been committed. In the instant case, the owner of the property was respondent No.2-Cooperative Society. So there is no impediment for the Court to permit both the parties to compound the offence punishable under Section 408 IPC, as both the parties are ready and willing for the same.

Consequently, the present petition is allowed and the impugned order dated 3.3.2020, Annexure P-1, passed by the Court of Additional Sessions Judge, Jalandhar in a Criminal Appeal bearing No.873/2017 titled as “Amrik Singh Vs. State of Punjab and others, is hereby set aside and permission is granted to the petitioner and respondent No.2-Cooperative Society to compound the offence punishable under Section 408 IPC.

The appellate Court should decide the aforesaid criminal appeal, accordingly.

**25.05.2022**

*P. Chawla*

**( KARAMJIT SINGH )  
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No