

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50956-2021 (O&M)

Date of decision : 22.08.2022

Santosh

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Man Mohit Malik, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No.273 dated 04.05.2018 registered under Sections 323 and 506 IPC (Section 307 IPC added later on) at Police Station Samalkha, District Panipat, on the basis of compromise/affidavit dated 24.11.2021 (Annexure P-2).

On 06.12.2021, the following order was passed:-

“The petitioner is seeking quashing of FIR No.273 dated 04.05.2018, under Sections 323, 506 IPC (Section 307 IPC added later on), registered at Police Station Samalkha, District Panipat, on the basis of compromise dated 24.11.2021 (Annexure P-2), which has been arrived at between the parties.

It is stated in the petition that the FIR is outcome of a marital dispute between the petitioner and his husband, who is the complainant/respondent no.2. The

matter has been amicable settled. A copy of the affidavit of respondent No.2 is at Annexure P-2.

Issue notice to the respondents.

At the asking of the Court, Ms. Aditi Girdhar, AAG, Haryana, accepts notice on behalf of respondent No.1.

List on 07.01.2022.

In the meantime, the parties are directed to appear before Illaqa Magistrate/trial Court on 17.12.2021. The Illaqa Magistrate/trial Court shall record their statements with regard to the genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.”

Pursuant to the aforesaid order, report from Additional District and Sessions Judge, Panipat dated 17.12.2021 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“The complainant Mukesh Kumar appeared in the Court and accused Santosh was produced in Court through production warrants. Statement of complainant Mukesh Kumar as well as accused Santosh recorded. Both of them stated that with the intervention of family members and other respectables, a compromise has been effected between them. They stated that the compromise has been effected between them without any pressure, coercion or undue influence and out of their free will and volition. The compromise will result in better future relations between them. They stated that they will reside together as husband and wife in future along with

children.

As per the statement of the parties, this Court is of the view that the compromise effected between the parties is without any pressure, undue influence or coercion and the same is effected out of free will and volition. The report is accordingly submitted.”

Mr. Man Mohit Malik, 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 307 of the IPC is non compoundable.

In response thereto, learned counsel for the petitioner 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.273 dated 04.05.2018 registered under Sections 323 and 506 IPC (Section 307 IPC added later on) at Police Station Samalkha, District Panipat and all proceedings arising therefrom, are, hereby, quashed.

(PANKAJ JAIN)
JUDGE

22.08.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No