

CRM-M-50392-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(243)

CRM-M-50392-2021
Date of Decision:-27.05.2022.

Harbans Lal Saini and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rituraj Singh, Advocate for the petitioners.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. Rishabh Gupta, Advocate for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0218 dated 19.10.2021 registered under Sections 420, 498-A and 406 IPC at Police Station City Hoshiarpur, District Hoshiarpur, on the basis of compromise dated 08.11.2021 (Annexure P-2).

On 25.02.2022, the following order was passed:-

“Prayer in the instant petition is for quashing of FIR No.0218 dated 19.10.2021 under Sections 420, 498-A and 406 IPC registered at Police Station City Hoshiarpur, District Hoshiarpur, along with all consequential proceedings arising therefrom on the basis of compromise (Annexure P-2).

Learned counsel for the petitioners submits that it was on account of a marital discord between petitioner No.3 and

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respondent No.2 that the FIR in question came into existence, however, subsequently the matter stands amicably settled between the parties vide compromise dated 18.11.2021 (Annexure P-2).

Mr. Rishab Gupta, Advocate has put in an appearance on behalf of the complainant/respondent No.2 and he undertakes to file his power of attorney in the Registry of this Court. He does not dispute the submissions made by counsel opposite and also does not oppose the prayer made for quashing of the FIR in question on the basis of compromise arrived at between the parties.

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial court on 07.04.2022 for getting their statements recorded with regard to the factum of compromise so effected between them. The Illaqa Magistrate/trial court is directed to record the statements of both the parties specifying the following:

- i. The name of the complainant and all accused arrayed in the FIR; whether all of them have appeared and made their respective statements in support of the compromise so effected between them;*
- ii. Whether any of the accused has been declared a Proclaimed Offender;*
- iii. The stage of trial/proceedings;*
- iv. If the compromise so arrived at between the parties is genuine, voluntarily and out of free will.*

The Illaqa Magistrate/trial court is further directed to send

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a report alongwith statements of the parties with regard to the validity or otherwise of the compromise so effected between the parties.

Adjourned to 27.05.2022.”

Pursuant to the aforesaid order, report from Chief Judicial Magistrate, Hoshiarpur dated 21.05.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“From the statements of the complainant, the accused & Investigating Officer the report of the undersigned is as under:-

1. That as per statement suffered by the Investigating Officer ASI Rajinder Singh No. 900 HPR, PS City, Hoshiarpur in the present FIR, the name of the complainant is Poonam Saini and there are only four persons namely Harbans Lal Saini, Krishna Saini, Gaurav Saini and Priya Saini have been arrayed as accused. All of them have appeared and made their respective statements in support of the compromise so effected between them except Gaurav Saini. Harbans Lal Saini being his attorney appeared on the behalf of Gaurav Saini.

2. That as per the statement of Investigating Officer ASI Rajinder Singh No. 900 HPR, PS City, Hoshiarpur, no accused is Proclaimed Offender in the present case.

3. That as per the statement of Investigating Officer ASI Rajinder Singh No. 900 HPR, PS City, Hoshiarpur, the case is still under investigation.

4. That in view of the above statements of the

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complainant and the accused, I am of the opinion that the compromise is genuine, voluntary and out of free will.”

Mr. Rishabh Gupta, Advocate appears for respondent No.2, 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 498-A 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 ‘noncompoundable’ 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

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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, the present petition is allowed. FIR No.0218 dated 19.10.2021 registered under Sections 420, 498-A and 406 IPC at Police Station City Hoshiarpur, District Hoshiarpur and all proceedings arising therefrom are hereby quashed.

(PANKAJ JAIN)
JUDGE

May 27, 2022.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No