

CRM-M-53535-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-53535-2021

Date of decision : 11.03.2022

Raghav Periwal and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Piyush Setia, Advocate
for the petitioners.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

Mr. Daman Jeet Bhoriwal, Advocate
for respondents No.2 and 3.

(Through Video Conferencing)

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.113 dated 06.06.2017 registered under Sections 354-D, 506 and 120-B IPC at Police Station City-1, Abohar, District Fazilka, on the basis of compromise deed dated 23.10.2021 (Annexure P-2).

On 21.12.2021, the following order was passed:-

“Through instant petition, petitioners are seeking quashing of FIR bearing No.113 dated 06.06.2017 under Sections 354-D, 506 and 120-B IPC registered at Police Station City-1 Abohar, District Fazilka and all the consequential proceedings arising therefrom on the basis of compromise.

It has been stated that the dispute has been amicably settled between the parties and a compromise has also been effected between them.

Notice of motion.

Ms. Ruchika Sabharwal, AAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Daman Jeet Bhoriwal, Advocate, has put in appearance on behalf of respondents No.2 and 3, placed on record vakalatnama and acknowledged the fact of compromise.

The parties are directed to appear before the learned Illaqa Magistrate/trial Court for recording their statements with regard to compromise/settlement on 18.01.2022. It is made clear that if for any reason, the statements are not recorded on that date, the same may be recorded on any subsequent date to the convenience of the Court concerned.

The learned Illaqa 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 in FIR;
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 case or not.
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.

To await the report, list again on 11.03.2022”.

Pursuant to the aforesaid order, report from SDJM, Abohar dated 15.02.2022 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“(i) In the present case as per statement of Investigating

Officer, the present FIR has been registered against two accused.

(ii) In the present case as per statement of Investigating Officer, none of accused has declared as proclaimed offender in the present FIR.

(iii) In the said back ground keeping in view the statements so suffered by the complainant and accused persons, it seems that the compromise so effected between the parties is genuine, voluntary and without any coercion or undue influence.

(iv) In the present case as per statement of Investigating Officer no accused person is involved in any other FIR.

(v) In the present case as per statement of Investigating Officer, Ishant Nagori and Rashika are the complainant.”

Mr. Daman Jeet Bhorawal, Advocate appears for respondents No.2 and 3 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 Sections 120-B 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, FIR No. 113 dated 06.06.2017 registered under Sections 354-D, 506 and 120-B IPC at Police Station City-1, Abohar, District Fazilka, and all proceedings arising therefrom are hereby quashed.

Petition stands allowed.

11.03.2022
D.Bansal

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No