

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43434-2019

Date of decision : 12.09.2022

Gurnam Singh and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Madhur Sharma, AAG, Punjab.

Mr. P.P.S. Brar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.163 dated 27.11.2015, registered for the offences punishable under Sections 326, 323, 324, 148 and 149 of IPC at Police Station Beas, District Amritsar, on basis of compromise deed dated 22.11.2018 (Annexure P-2).

On 14.10.2019, the following order was passed:-

“By filing this petition, quashing of FIR No.163 dated 27.11.2015 under Sections 326, 323, 324, 148 & 149 of Indian Penal code, registered at Police Station Beas, District Amritsar (Annexure P-1), has been sought on the basis of compromise (Annexure P-2) along with all consequential proceedings.

Notice of motion.

Ms. Monica Jalota, DAG, Punjab and Mr. Sumeet Singh Sohal, Advocate, accept notice on

behalf of the State and respondent no.2 respectively.

Parties may appear before the concerned Illaqa/Duty Magistrate on 07.11.2019 or on any other date convenient to 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, the Illaqa/Duty Magistrate will send copies of the same to this Court before the next date of hearing along with the 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 any other proceeding is pending against the accused/petitioners.

Adjourned to 10.12.2019.”

Pursuant to the aforesaid order, report from Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar dated 15.11.2019 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

6. The report as desired by the Hon'ble High Court is as under:

- (i) compromise has been entered into in between the petitioners and complainant voluntarily, out of their free will and without any pressure or coercion and the same appears to be genuine one.
- (ii) As per statement SI Joginder Singh,

petitioners Sharanjit Singh, Dharminder Singh and Balwinder Singh alias Monu have arrested in this case and at present they are on bail. Remaining five accused not arrested yet and they filed the present petition.

(iii) As per the statement of SI Joginder Singh one another criminal case registered at Police Station Beas against petitioners Sandeep Singh, Dharminder Singh and Gurpreet Singh but that case bearing FIR no.148 dated 28.10.2015 under Sections 341, 323, 148, 149 of IPC has no concern with the complainant of this case.”

Mr. P.P.S. Brar, 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 offences punishable under Sections 326, 324, 148 and 149 of the IPC are 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.163 dated 27.11.2015, registered for the offences punishable under Sections 326, 323, 324, 148 and 149 of IPC at Police Station Beas, District Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

12.09.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No