

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

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CRM-M-48289-2019

Date of decision: 12.09.2022

HARBANS SINGH AND OTHERS

.... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr.A.S.Rehal, Advocate for the petitioners.

Mr.Gurdarshan Singh Sidhu, AAG, Punjab.

Mr. Mohan Singh Chauhan, Advocate for respondent No.2.

PANKAJ JAIN, J. (oral)

By way of present petition, the petitioners are seeking quashing of FIR No.20 dated 28.02.2016, registered for offences punishable under Sections 323, 341, 452 and 34 of the Indian Penal Code 1860 at Police Station Singh Bhawanpura, District Rupnagar on the basis of compromise and all consequent proceedings arising therefrom.

On 14.11.2019, while directing the parties to appear before the trial Court, following order was passed:-

“The present petition has been filed for quashing of FIR No.20 dated 28.02.2016 registered under Sections 323, 341, 452, 34 IPC at Police Station Singh Bhawanpura, District Rupnagar, Punjab and all subsequent proceedings on the basis of compromise.

Notice of motion for 07.02.2020.

On asking of the Court, Mr. Harbir Sandhu, AAG, Punjab, accepts notice on behalf of the State. Mr. Mohan Singh Chauhan, Advocate accepts notice on behalf of the complainant- respondent No.2.

Learned counsel for the petitioners is directed to supply copies of the paper book to the opposite counsel during course of the day.

Let the parties now appear before the trial Court/Illaqa Magistrate on 03.12.2019 or any other date convenient to the Court for recording their statements with regard to compromise. The trial Court/Illaqa Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The trial Court/Illaqa Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties before the next date of hearing. It shall also be reported whether petitioner(s) have been declared Proclaimed Offender(s) in this case or not.”

Pursuant to the aforesaid order, report from Civil Judge(Junior Division)-cum-Judicial Magistrate Ist Class, Rupnagar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Investigating Officer ASI Kashmiri Lal appeared and suffered a statement to the effect that there are only three accused in the present case namely Harbans Singh son of Ajit Singh, Jagroop Singh son of Harbans Singh and Ashu @ Akshay Kumar son of Bahadar Singh. He further stated that none of the accused has been declared a proclaimed offender in the present case.

In view of the above said statements, it appears to this Court that the compromise entered into between the parties is genuine and the same has been effected between the parties out of their free will and consent, without any threat or pressure or undue influence. It is further submitted that none of the accused has been declared a proclaimed offender in this case.”

Mr. Mohan Singh Chauhan, Advocate, appears for respondent No.2, admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 26.09.2019 (Annexure P-2) but the fact remains that offence punishable under Section 452 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, present petition is allowed. FIR No.20 dated 28.02.2016, registered for offences punishable under Sections 323, 341, 452

and 34 of the Indian Penal Code 1860 at Police Station Singh Bhawantpura, District Rupnagar on the basis of compromise and all consequent proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

September 12, 2022
Jyoti-IV

Whether speaking/reasoned:	Yes/No.
Whether reportable :	Yes/No