
Before T.P.S. Mann, J.

JOGINDER SINGH & OTHERS,—*Petitioners*

versus

STATE OF PUNJAB & ANOTHER,—*Respondents*

Criminal Misc. No. 20862/M of 2005

10th March, 2006

Code of Criminal Procedure, 1973—S. 320—Charges u/ss 420/120-B IPC against accused—Compromise arrived at between complainant and accused—Request for grant of permission to compound the offences—Trial Court declining permission—Whether offence under section 120-B IPC compoundable—Held, yes—S. 120-B prescribes punishment for criminal conspiracy and also compoundable u/s 320 Cr. P.C. in the same manner as offence u/s 420 IPC—Petition allowed.

Held, that Section 120-B IPC prescribes punishment for criminal conspiracy. Whosoever is a party to a criminal conspiracy to commit an offence is to be punished in the same manner as if he had abetted such offence. Once it is clear that criminal conspiracy involves the element of abetment, the offence u/s 120-B IPC is also compoundable under section 320-B Cr. P.C. in the same manner as offence u/s 420 IPC. Such being the position, offence u/s 420 IPC is compoundable with the permission of the Court u/s 320(2) Cr. P.C. Similarly, offence u/s 120-B IPC in relation to the offence u/s 420 IPC is also compoundable in the similar manner.

(Paras 3 & 4)

L.M. Gulati, Advocate for the petitioners.

J.S. Dhillon, DAG Punjab for respondent No. 1

None for respondent No. 2

JUDGMENT

T.P.S. MANN, J.

(1) FIR No. 129 dated 27th August, 1999 was registered at Police Station "A" Division, Amritsar under Section 420 IPC, on the basis of an application submitted by Raminder Pal Singh Sethi—Complainant—respondent No. 2. After the investigation of the case, challan under Section 420/120-B IPC was submitted in the Court against the petitioners. On 25th September, 2004, when the matter

was fixed for recording of the evidence before JMIC, Amritsar, an application was moved on behalf of the accused—petitioners for compounding the offences with the complainant. Respondent No. 2, who was present in the Court got his statement (Annexure P-2) recorded, wherein he stated that the grievance has been removed as the accused-party had deposited the loan amount taken by them from the bank. He further stated that at the intervention of the respectable, a compromise had been arrived at. He requested for the grant of permission so as to compound the offences with the accused.

(2) After perusing the file, the Magistrate noticed that apart from Section 420 IPC, charge had also been framed under Section 120-B IPC and for the reason that offence under Section 120-B IPC was not compoundable, no permission could be granted to the complainant, as well as the accused to compound the offence. The said order (Annexure P-4) passed by the Magistrate on 25th September, 2004 is under challenge in the present petition filed by the petitioners under Section 482 Cr. P.C.

(3) Section 320 Cr. P.C. deals with compounding of offences. Offences mentioned in the table under sub-section (1) are compoundable as such. Under sub-section (2) are the offences, which can be compounded with the permission of the Court. Offence u/s 420 IPC falls in this category. Sub-section (3) says that when any offence is compoundable under this section, the abetment of such offence may be compoundable in like manner. The relevant portion of Section 320 Cr. P.C. reads as under :

“320. Compounding of offences :

- (1) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that table:

XXX XXX XXX XXX XXX XXX

- (2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table :

XXX XXX XXX XXX XXX XXX

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- (3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner”.

Section 120-B IPC prescribes punishment for criminal conspiracy. Whosoever is a party to a criminal conspiracy to commit an offence is to be punished in the same manner as if he had abetted such offence. In **N.M.M.Y. Momin versus State of Maharashtra**, (1) the Court while drawing distinction between S. 34 IPC and S. 109 IPC, went on to consider the elements of criminal conspiracy. It was noticed that there was close association of conspiracy with incitement and abetment although the substantive offence of criminal conspiracy was somewhat wider in amplitude than abetment by conspiracy as contemplated by S. 107 IPC.

(4) Once it is clear that criminal conspiracy involves the element of abetment, the offence u/s 120-B IPC is also compoundable under Section 320 Cr. P.C. in the same manner as offence u/s 420 IPC. Such being the position, offence under Section 420 IPC is compoundable with the permission of the Court under Section 320 (2) Cr. P.C. Similarly, offence under Section 120-B IPC in relation to the offence under Section 420 IPC is also compoundable in the similar manner.

(5) Up-shot of the above discussion leads to the conclusion that the Magistrate was not right in declining permission to compound the offences under Section 420 and 120-B IPC. Accordingly, the petition is accepted and the impugned order (Annexure P-4) passed by the JMIC, Amritsar on 25th September, 2004 to the extent of not granting permission to compound the aforesaid offences is set aside. The prayer made on behalf of the accused for compounding the said offences with complainant/respondent No. 2 is accepted. The petitioners are accordingly acquitted of the charges against them.

R.N.R.

(1) AIR 1971 S.C. 885