

(2011) 03 P&H CK 0243

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-36064 of 2010 (O and M)

Gurwinder Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: March 15, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320(9), 482
- Penal Code, 1860 (IPC) - Section 148, 149, 323, 324, 406

Hon'ble Judges: Ritu Bahri, J

Bench: Single Bench

Judgement

Ritu Bahri, J.

Present petition has been filed u/s 482 Cr.P.C. for quashing FIR No. 246 dated 20.11.2010 under Sections 452, 324, 323, 427, 148, 149 IPC registered at Police Station Maqsudan, District Jalandhar and all subsequent proceedings arising there from on the basis of compromise.

2. As per the contents of the FIR, a quarrel had taken place between the Petitioners and Respondent No. 2 due to some misunderstanding. During the pendency of the investigation, compromise has been effected between the parties.

3. In compliance of the order dated 8.12.2010, a status report has been received from the learned Judicial Magistrate Ist Class, Jalandhar. As per the status report, statements of the parties were recorded on 24.1.2011 and 31.1.2001, which have been counter signed by their respective counsel and both the parties have admitted the compromise dated 30.11.2010 effected between them. Jaswinder Singh son of Shingara Singh got recorded his statement to the effect that he has no objection if the FIR against the Petitioner is quashed.

4. Broad guidelines have been laid down by the Full Bench of this Court in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007(3) RCR(cri) 1052 for quashing the prosecution when parties entered into compromise. The Full Bench

has observed that this power of quashing is not confined to matrimonial disputes alone. The relevant portion of the judgment reads as under:

26. In [Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others](#), Hon"ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:

The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power u/s 482 of the Cr.P.C.

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power u/s 482 of the Code of Criminal Procedure is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers u/s 482 of the Code of Criminal Procedure in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

5. The ratio of the Full Bench judgment is a special reference has been made to the offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. However, the offences against human body other than murder and culpable homicide may be permitted to be compounded when the Court is in the position to record a finding that the settlement between the parties is voluntary and fair. The Court must examine the cases of weaker and vulnerable victims with necessary caution.

6. The Hon"ble Supreme Court in the case of Madan Mohan Abbot v. State of Punjab 2008 (2) R.C.R. Cri 429. has examined a case where quashing was sought of an FIR u/s 406 IPC being non-compoundable. The Hon"ble Supreme Court has held that:

1. No useful purpose would be served in continuing with the proceedings in the light of the compromise - There was no possibility of conviction.
2. It is advisable that in disputes where question involved is of purely personal nature and no public policy is involved Court should ordinarily accept the compromise.
3. Keeping the matter alive with no possibility of conviction is a luxury which the Courts, grossly overburdened as they are, cannot afford.
7. Consequently, in view of the judgment of the Hon"ble Supreme Court in the case of Madan Mohan Abbot v. State of Punjab (supra) and the law laid down by the Full Bench of this Court in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. (supra), FIR No. 246 dated 20.11.2010 under Sections 452, 324, 323, 427, 148, 149 IPC registered at Police Station Maqsudan, District Jalandhar and all subsequent proceedings arising there from on the basis of compromise is quashed qua the Petitioners.
8. The petition stands disposed of.