

Gurjit Singh and Others Vs State of Punjab and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 21, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 320(9), 482

Penal Code, 1860 (IPC) â€” Section 109, 120B, 306, 406, 420

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 â€” Section 3, 4

Hon'ble Judges: Ritu Bahri, J

Bench: Single Bench

Judgement

Ritu Bahri, J.

Present petition has been filed u/s 482 Code of Criminal Procedure for quashing FIR No. 60 dated 6.9.2010 under Sections

420, 120-B, 306, 109, 511 IPC registered at Police Station Narot Jaimal Singh, District Gurdaspur and all subsequent proceedings arising there

from on the basis of compromise (Annexure P-2).

2. As per the contents of the FIR, on 6.9.2010, complainant / Respondent No. 2 was serving at the STD Shivia Finance Co. Taragarh she

became intimated with Petitioner No. 1 Gurjit Singh. On 1.8.2010, when she met Gurjit Singh at Guardaspur, her family became known of this fact

and then she asked Gurjit Singh for marrying her. On 5.8.2010, they went to the house of Gurnam Singh, who is cousin of Gurjit Singh at Jammu.

After leaving her at Jammu Petitioner No. 1 came back to his house and she remained at Jammu and Udhampur and during this period Gurjit Singh

Petitioner No. 1 met her for 2-3 times. On 18.8.2010 Gurjit Singh called her at Kathua where Jeeta r/o Akhwara another cousin of Gurjit Singh

was also present, where Gurjit Singh asked her to remain at Jammu for about 2 months and then he will take her to Ahmedabad. Petitioners No. 2

& 3 along with Makhan Singh cousin of Gurjit Singh and his wife Baljit Kaur also met her at Jammu and assured her that marriage of Gurjit Singh

will be solemnized with her. Thereafter, families of Petitioner No. 1 and Respondent No. 2 with mutual consent agreed to their marriage and the

date of marriage was fixed as 6.9.2010. But later on Petitioner No. 1 and his family members backed out from solemnizing their marriage and

Gurjit Singh asked her that he is not going to marry her and also asked to kill herself by consuming something and that if she does not do so, she

will be killed by his family and then being disappointed consumed Acid which was lying in the house of Gurnam Singh at Jammu and she was

admitted in the Medical College Jammu where she remained for 6 days and thereafter her maternal uncle Mohan Salaria took her to Garib Janta

Hospital, Qadian.

3. In the above background the case had been registered against the Petitioners. They were arrested on 22.11.2010 and were released on bail on

14.12.2010, on the basis of affidavit of the complainant / Respondent No. 2 that she does not want any action against any of the accused. At this

stage the parties have entered into compromise. Respondent No. 2 is present in the Court and she has been duly identified by her counsel.

Compromise deed dated 24.12.2010 is annexed with the petition, wherein the Respondent / complainant and the Petitioners have stated that with

the intervention of relatives, respectable and the friends, do not wish to pursue this case / FIR and she has no objection if the FIR registered against

the Petitioners is quashed.

4. An affidavit has also been filed by complainant / Respondent No. 2 in Court today. As per the affidavit she has stated that she has entered into

compromise and she has no objection if the FIR in question is quashed.

5. As per the details of the FIR, it transpires that this was a dispute between two families in which children were involved in a relationship, which

was accepted lateron. The parties had fixed the marriage on 6.9.2010. The marriage could not take place. In this background the FIR was

registered by the complainant. The matter has now been amicably settled between the parties. No useful purpose would be served if the

proceedings are allowed to be continued.

6. 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 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 Criminal Procedure Code, or any other such curtailment, can whittle down the power u/s 482 of the Code of

Criminal Procedure

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.

7. 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.

8. The Hon"ble Supreme Court in the case of Madan Mohan Abbot v. State of Punjab 2008(2) R.C.R.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.

9. This Court in the case of Parambir Singh Gill v. Malkiat Kaur 2010 (1) RCR 256, has been pleased to lay down as under:

Criminal Procedure Code, Section 320-Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 3 and 4-Non

Compoundable offence-of the seven accused, complainant entering into compromise with one accused-Proceedings qua one accused only

quashed by High Court in exercise of inherent power u/s 482 of the Code of Criminal Procedure.

10. Consequently, in view of the judgment of the Hon"ble Supreme Court in the case of Madan Mohan Abbot v. State of Punjab (supra),

Parambir Singh Gill v. Malkiat Kaur (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. 60 dated 6.9.2010 under Sections 420, 120-B, 306, 109, 511 IPC registered at Police Station Narot

Jaimal Singh, District Gurdaspur and all subsequent proceedings arising there from on the basis of compromise is quashed qua Petitioners.

11. The petitions stand disposed of.