

Gurwinder Singh alias Goggi Vs State of Punjab and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 18, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 320(9), 438, 482
Penal Code, 1860 (IPC) â€” Section 406, 420

Hon'ble Judges: Daya Chaudhary, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Daya Chaudhary, J.

The present petition has been filed u/s 482 Code of Criminal Procedure for quashing of FIR No. 82 dated 3.7.2009

registered under Sections 420 and 406 IPC at Police Station Bhalath, District Kapurthala on the basis of compromise effected between the parties

and the same is annexed as Annexure P-2 with the petition, which is in the form of affidavit given by the complainant.

2. Notice of motion was issued on 28.1.2011 and the parties were also directed to appear before Illaqa Magistrate and Illaqa Magistrate was

directed to record statements of both the parties and to send a report with regard to genuineness of the compromise effected between the parties.

3. In compliance of the direction issued by this Court on 28.1.2011, a report has been sent along with statements of the parties by Chief Judicial

Magistrate, Kapurthala. It has been mentioned in the report that statements of the parties are not the result of any pressure or coercion in any

manner and the parties have made their statements with their free will and compromise is genuine.

4. In reply filed on behalf of the State, it has also been mentioned that there is no other case pending against the Petitioner in District Kapurthala.

Since the matter has been compromised between the parties, I am of the considered view that continuation of impugned criminal proceedings

between the parties would be an exercise in futility. The complainant himself does not want to pursue these proceedings and it shall be merely a

formality and sheer wastage of precious time of the Court as complainant would not support the case of prosecution in view of compromise

between the parties. It would be in the interest of the parties as well as in the large interest of the society, peace and harmony and in order to save

both the families from avoidable litigation that the compromise arrived at between them is accepted by this Court.

5. It has been observed by Hon"ble the Apex Court in Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, that ""the finest Hour

of Justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."" 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. Relying on the views adopted by the Hon"ble

Supreme Court, the Five Judges Bench of this Court also observed in Kulwinder Singh v. State of Punjab 2007 (3) R.C.R. 1052 that

compounding of offence which are not compoundable u/s 320(9) Code of Criminal Procedure, offence non-compoundable but parties entering

into compromise, High Court has the power u/s 482 Code of Criminal Procedure to allow the compounding of non-compoundable offences and

quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of Court or to otherwise secure

the ends of justice.

6. While dealing with issue of quashing of FIR on the basis of compromise a Bench consisting of Five Hon"ble Judges of this Court in Kulwinder

Singh"s case (supra) while approving minority view in Dharambir v. State of Haryana 2005 (3) RCR (Cri) 426 : 2005 (2) AC 424 : 2005 (2) L H

723 (P&H) (FB), opined as under :

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its

power u/s 482, of the Code of Criminal Procedure The only principle that can be laid down is the one which has been incorporated in the Section

itself, i.e, ""to prevent abuse of the process of any Court"" or "" to secure the ends of justice.

No embargo, be in the shape of Section 320(9) Code of Criminal Procedure or any other such curtailment, can whittle down the power u/s 438

Code of Criminal Procedure.

7. 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

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 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.

8. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Code of Criminal Procedure which can affect

the inherent power of this Court u/s 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to

quash the proceedings even in non-compoundable offences notwithstanding the bar u/s 320 Code of Criminal Procedure, in order to prevent the

abuse of law and to secure the ends of justice.

9. The power u/s 482 Code of Criminal Procedure is to be exercised Ex-Debitis Justitia to prevent an abuse of process of Court. There can neither

be an exhaustive list nor the defined parameters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the

facts and circumstances of each case. The power u/s 482 Code of Criminal Procedure has no limits. However, the High Court will exercise it

sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is vital and an extra-

ordinary effective instrument to maintain and control social order. The Courts play a role of paramount importance in achieving peace, harmony and

ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the

immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful

composition of the society or would promote savagery.

10. Compromise in modern society is the sine qua non of harmony and orderly behaviour. As observed by Krishna Iyer J., the finest hour of

justice arrives propitiously when parties despite falling apart, bury the hatchet and weave a sense of fellowship of reunion. Inherent power of the

Court u/s 482 Code of Criminal Procedure is not limited to matrimonial cases alone. The Court has wide powers to quash the proceedings even in

non-compoundable offences in order to prevent abuse of process of law and to secure ends of justice, notwithstanding bar u/s 320 Code of

Criminal Procedure Exercise of power in a given situation will depend on facts of each case. The duty of the Court is not only to decide a list

between the parties after a protracted litigation but it is a vital and extra-ordinary instrument to maintain and control social order. Resolution of

dispute by way of compromise between two warring groups should be encouraged unless such compromise is abhorrent to lawful composition of

society or would promote savagery, as held in Kulwinder Singh's case (supra).

11. For the reasons recorded above and having regard to the principles laid down by the Five -Judges Bench of this Court in case of Kulwinder

Singh's case (supra), this petition is allowed and impugned criminal proceedings arising out of FIR No. 82 dated 3.7.2009 registered under

Sections 420 and 406 IPC at Police Station Bhalath, District Kapurthala as well as all subsequent proceedings arising therefrom are quashed.