

(2013) 08 P&H CK 0536

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-12081 of 2013

Harbans Lal and Another

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: Aug. 5, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Hindu Marriage Act, 1955 - Section 13B
- Penal Code, 1860 (IPC) - Section 307, 323, 34, 406, 498A

Hon'ble Judges: Daya Chaudhary, J

Bench: Single Bench

Advocate: K.S. Dadwal, for the Appellant; Rupam Aggarwal, D.A.G., Punjab for the State and Mr. Bhanu Partap, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Daya Chaudhary, J.

The present petition has been filed on behalf of petitioners, namely, Harbans Lal and Rajneesh Kumar for quashing of FIR No. 44 dated 31.10.2007 under Sections 498-A, 323, 506 and 34 IPC registered at Police Station Talwara, District Hoshiarpur as well as Complaint no. 44 dated 04.12.2007 under Sections 406, 498-A, 307, 323, 506 and 34 IPC along with all subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties. Learned counsel for the petitioners has handed over a draft No. 889050 dated 02.07.2013 amounting to Rs. 4 lacs to respondent No. 2-wife, who is present in the Court and has been identified by learned counsel representing her. Learned counsel for the petitioners submits that the statements of the parties have been recorded in a petition u/s 13-B of the Hindu Marriage Act. The complainant/respondent No. 2 has specifically stated in her statement that she has no objection in quashing of the present FIR as well as complaint.

2. In Kulwinder Singh and Others Vs. State of Punjab and Another, the Larger Bench of our own High Court has held that the High Court has the wide power to quash the proceedings even in non-compoundable offences, notwithstanding the bar u/s 320 of the Criminal Procedure Code in order to prevent abuse of the process by any Court or to secure the ends of justice. In Kulwinder Singh's case, the Larger Bench has also observed:-

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 Cr.P.C. 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 Cr.P.C. 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.

3. The Apex Court in the case of " Madan Mohan Abbot Vs. State of Punjab, emphasized in para No. 6 as follows:-

6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

4. Hon'ble the Supreme Court in the case of B.S. Joshi and Others Vs. State of Haryana and Another, in para 6 and 11, held as under:-

6. In Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, this Court with reference to Bhajan Lal's case observed that the guidelines laid therein as to where the court will exercise jurisdiction u/s 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

11. In Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandrojirao Angre and Others, it was held that while exercising inherent power of quashing u/s 482, it is for the High Court to take into consideration any special features which appears in a particular case to consider whether it is expedient and in the interest of justice to

permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

5. Since the dispute between the parties has been settled by way of compromise and this has been proved from the fact that their statement has been recorded by the trial Court in a petition u/s 13-B of the Hindu Marriage Act and a draft of Rs. 4 lacs has also been handed over to the complainant-respondent No. 2/wife in the Court today and she has no objection in quashing of the FIR as well as complaint, I am of the considered view that continuation of impugned criminal proceedings between the parties would be an exercise in futility. The complainant does not want to pursue these proceedings and it shall merely be a formality and sheer wastage of precious time of the Court as the complainant would not support the case of prosecution in view of compromise arrived at between the parties. Accordingly, this petition is allowed and impugned criminal proceedings arising out of FIR No. 44 dated 31.10.2007 under Sections 498-A, 323, 506 and 34 IPC registered at Police Station Talwara, District Hoshiarpur as well as Complaint no. 44 dated 04.12.2007 under Sections 406, 498-A, 307, 323, 506 and 34 IPC along with all subsequent proceedings arising therefrom qua petitioners Harbans Lal and Rajneesh Kumar @ Rajnish Kumar are quashed.