

Subhash Kumra and Another Vs State of Haryana and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 18, 2012

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482
Penal Code, 1860 (IPC) â€” Section 120B, 420, 467, 468, 471

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Sumeet Goel and Mr. Rakesh Dhiman, for the Appellant; Sameer Singh, Assistant Advocate General, Haryana, for Respondent No. 1-State, Mr. Shashi Kant Gupta, Advocate and Mr. L.M. Gulati, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Mehinder Singh Sullar, J.

Concisely, the facts, culminating in the commencement, relevant for disposal of the instant petition and oozing out

from the record are that, in the wake of complaint of complainant-Prem Krishan Chouhan, respondent No. 2(for brevity ""the complainant""), a

criminal case was registered against the petitioners-accused, by way of FIR No. 253 dated 02.10.2010(Annexure P-1), for the commission of

offence punishable under Sections 420, 467, 468, 471 and 120B IPC, by the police of Police Station DLF Phase II, Gurgaon. During the course

of investigation of the case, good sense prevailed and the parties have amicably settled their disputes by means of agreement dated

28.02.2012(Annexure P-2) and affidavit(Annexure P-3) of the complainant.

2. Having compromised the matter, now the petitioners-accused have preferred the present petition for quashing the FIR, on the basis of

agreement/compromise, invoking the provisions of Section 482 Cr.P.C., inter alia, pleading that with the intervention of respectables and relatives,

they have amicably settled their disputes. The criminal case was stated to have been registered on the basis of some misunderstandings, which have

now been removed between the parties. Not only that, the complainant has also filed the affidavit, wherein he has reiterated the factum of

agreement/compromise and maintained that he has no objection if the criminal case registered against the petitioners-accused is quashed. On the

strength of aforesaid grounds, the petitioners sought to quash the FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, in the

manner depicted hereinabove.

3. During the course of preliminary hearing, a Coordinate Bench of this Court (Ritu Bahri, J.), directed the Area Magistrate, to record the

statements of the concerned parties and to send his report, by virtue of order dated 27.04.2011.

4. In pursuance thereof, the Magistrate has sent the report bearing No. 1379 dated 27.07.2011, which in substance is as under:

I have honour to submit that both parties i.e. complainant-Prem Krishan Chouhan and accused Subhash Kumra and Satish Kumra have

compromised the matter. Complainant Prem Krishan Chouhan has made a statement to the effect that he has compromised the matter voluntarily

and without any coercion and he does not want any legal action against the accused. Accused Subhash Kumra and Satish Kumra have also

deposed that they have compromised the matter with the complainant. In view of the statements of both the parties, this court is of the opinion that

the matter has been compromised voluntarily.

5. Meaning thereby, it stands proved on record that the parties have amicably settled their all disputes vide agreement/compromise dated

28.02.2011 (Annexure P-2) and the report of the CJM.

6. Above being the position on record, now the core question that arises for determination in this petition is, as to whether the present criminal

prosecution against the petitioners deserves to be quashed in view of the compromise or not?

7. Having regard to the contentions of the learned counsel for the parties, to my mind, it would be in the interest and justice would be sub-served, if

the parties are allowed to compromise the matter. Moreover, learned counsel for the parties are ad idem that, in view of the settlement of dispute

between the parties, the present petition deserves to be accepted in this relevant direction.

8. What cannot possibly be disputed here is that, the law with regard to quashing the criminal prosecution on the basis of settlement between the

parties by virtue of compromise, has now been well-settled by the Hon"ble Supreme Court in cases Shiji @ Pappu and others Versus Radhika

and another, 2012 (1) RCR (Cri) 9, Manoj Sharma v. State & Ors. 2008 (4) RCR (Cri) 827; B.S.Joshi v. State of Haryana 2003 (2) RCR (Cri.)

888 (SC) and Full Bench of this Court in case Kulwinder Singh and others v. State of Punjab and another 2007 (3) RCR (Cri) 1052, wherein it

was ruled that the High Court has vast inherent power to quash the criminal prosecution on the basis of settlement of disputes between the parties.

9. The crux of the law laid down in the aforesaid judgments is that the power u/s 482 Cr.PC has no limits. However, the High Court will exercise it

sparingly and with utmost care and caution. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The

Courts play role of paramount importance in achieving peace, harmony and everlasting congeniality in society and 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 if the statement is

fair being free from under pressure. Meaning thereby, the High Court has unlimited power to quash the criminal proceedings, relating to such

disputes, on the basis of lawful settlement. The law laid down in the aforesaid judgments ""mutatis mutandis"" is fully attracted in the present case and

is the complete answer to the problem in hand.

10. As is evident from the record that, the parties have amicably settled their disputes with the intervention of respectables and friends, vide

agreement/ compromise(Annexure P-2). The misunderstanding erupted between the parties for want of loss of record. The matter was settled after

obtaining duplicate copies of the documents from DLF. The complainant has reiterated the factum of compromise in his affidavit(Annexure P-3).

He has no objection, if the criminal prosecution against the petitioners is quashed. The version in regard to the compromise between the parties is

also reiterated by the CJM in his indicated report. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so,

there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in

peace and to enjoy the life and liberty in a dignified manner. Therefore, to my mind, the impugned FIR(Annexure P-1) and all other subsequent

proceedings arising therefrom, deserve to be quashed in this context. In the light of aforesaid reasons, the instant petition is hereby accepted.

Consequently, FIR No. 253 dated 02.10.2010(Annexure P-1) and all other subsequent proceedings arising therefrom are quashed. The

petitioners-accused are accordingly discharged, from the indicated criminal case in the obtaining circumstances of the case.