

(2008) 04 P&H CK 0128

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-2245 of 2006

Harpal Singh @ Soni

APPELLANT

Vs

State of Haryana and
othersRESPONDENT

Date of Decision: April 28, 2008**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 320(9), 482
- Penal Code, 1860 (IPC) - Section 34, 342, 363, 366A, 376

Citation: (2008) 4 RCR(Criminal) 459**Hon'ble Judges:** Rajesh Bindal, J**Bench:** Single Bench

Advocate: Madan Pal, for the Appellant; Yashwinder Singh, AAG, Haryana for the Respondent No. 1 Mr. Sandeep Sharma, Advocate along with Mr. Satpal and Ms. Akwinder Kaur, complainats in person for the Respondents Nos. 2 and 3, for the Respondent

Judgement

Rajesh Bindal, J.

The prayer made in this present petition filed u/s 482 of the Code of Criminal Procedure (for short "the Code") is for quashing of FIR No. 99 dated 29.5.2006 registered under Sections 363/366A/376/342/506 and 34 IPC at Police Station Taraori, District Karnal and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the petitioner has been arrayed as an accused in the FIR with the allegation of abduction, rape and threatening along with two other co-accused. The alleged occurrence took place on 26.5.2006 for which the FIR was registered on 29.5.2006. The petitioner in fact went to Italy on 27.5.2006 at 9:45 P.M. and remained there till 23.1.2008, he came back as marriage of his brother and sister was scheduled on 02/03.02.2008. In fact the entire family of the petitioner which is residing at Italy had come to India for the purpose of marriage. It was for the first time in January, 2008 when the father of the petitioner came to India and he came to know that the

petitioner has been falsely implicated in the present case and he had in fact been declared proclaimed offender by the learned Judicial Magistrate First Class, Karnal. He further submitted that the other two co-accused in the same FIR were acquitted by the learned Additional Sessions Judge vide judgment dated 10.11.2006 after the prosecution miserably failed to prove the case. As the petitioner was also falsely involved in the present case and he had no knowledge about it, he could not face the trial and during his absence from the country, he was declared proclaimed offender. He further submitted that now the matter in dispute has been settled between the parties and the complainants and her mother have sworn affidavits stating that they do not have any objection in case the FIR in question is quashed as they do not want to pursue the same. Once that is so the FIR in question registered against the petitioner be quashed. Reliance has been placed upon a five-Judge Bench judgment of this Court in *Kulwinder Singh v. State of Punjab*, 2007 (3) RCR (Cri) 1052 : 2007 (3) LH 2225 (P&H) (LB).

3. Respondents Nos. 2 and 3 - complainants, Satpal and Akwinder Kaur are present in Court in person. They have been identified by their counsel. In reply filed on behalf of respondents Nos. 2 and 3 - complainants today in Court, the contents of the petition filed by the petitioners have been admitted and it is stated that they have no objection in case the FIR in question is quashed.

4. 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) Ape Cri 424 : 2005 (2) LH 723 (P&H) (FB), opined as under :-

"27. 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 Cr. P.C. 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."

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

"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.

29. 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.

30. 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 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 of the 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, 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.

31. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr. P.C 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 of the Cr. P.C., in order to prevent the abuse of law and to secure the ends of justice.

32. The power u/s 482 of the Cr. P.C is to be exercise Ex-Debitia 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 of the Cr. P.C. 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 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."

5. 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 Cr. P.C 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 Cr. P.C. 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 lis 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).

6. Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case where the parties have settled the dispute among themselves and further keeping in view the fact that the other two co-accused in the same FIR with identical allegations have already been acquitted by the trial Court vide judgment dated 10.11.2006, in my opinion, no useful purpose will be served 29.5.2006 registered under Sections 363/366A/376/342/506 and 34 IPC at Police Station Taraori, District Karnal and all subsequent proceedings arising therefrom are quashed.

7. The petition is disposed of accordingly.