
(2010) 12 P&H CK 0433

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-35749 of 2009

Karam Chand and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Dec. 20, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 438, 482
- Penal Code, 1860 (IPC) - Section 323, 324, 326, 34, 452

Hon'ble Judges: Daya Chaudhary, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Daya Chaudhary, J.

The present petition has been filed u/s 482 Code of Criminal Procedure for quashing of FIR No. 235 dated 30.10.2008 under Sections 452, 326, 324, 323/34 IPC registered at Police Station Sadar Jalalabad, District Ferozepur and all subsequent proceedings arising therefrom on the basis of compromise/ Affidavits which are annexed as Annexure P-2 (Colly) with the petition.

2. Notice of motion was issued in the case to the Respondents on 17th December, 2009.

3. While issuing notice of motion on 29th November, 2010 in connected Crl. Misc. No. M-34433 of 2010 for quashing of FIR between the parties, directions were also issued to the Area Magistrate to verify with regard to validity of the affidavit filed by the complainant and record the statements of all the concerned parties. In compliance of the order passed by this Court, statements of both the parties have been recorded. It has also been mentioned that it has been verified by the Court that there was no pressure upon the parties to compromise the dispute.

4. Complainant Baljeet Kumar has also filed an affidavit that he has no objection with regard to quashing of the said FIR. The order where the statements of both concerned parties were recorded by SDJM, Jalalabad (West) is also on record of Crl. Misc. No. M-34433 of 2010.

5. After hearing learned Counsel for 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.

6. 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.

7. 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 426 : 2005 AC 424 : 2005 (2) LH 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

8. 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
9. 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.
10. 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 CrI. Misc. No. M-35749 of 2009 -5 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.
11. The power u/s 482 Code of Criminal Procedure is to be exercised 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 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 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.
12. 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 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).

13. 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 FIR No. 235 dated 30.10.2008 under Sections 452, 326, 324, 323/34 IPC registered at Police Station Sadar Jalalabad, District Ferozepur as well as all subsequent proceedings arising therefrom are quashed.