

**(2012) 07 P&H CK 0252**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. M-6140 of 2012

Aman Bhatia and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

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**Date of Decision:** July 16, 2012

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 320(9), 482
- Penal Code, 1860 (IPC) - Section 406, 420

**Hon'ble Judges:** Daya Chaudhary, J

**Bench:** Single Bench

**Advocate:** Harveen Kaur, for the Appellant; R.S. Rawat, A.A.G., Punjab, State and Mr. P.S. Punia, Advocate, for the Respondent

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**Judgement**

Daya Chaudhary, J.

The present petition has been filed u/s 482 of the Code of Criminal Procedure on behalf of petitioners, namely, Aman Bhatia, Rohit Singla and Jimmy Puri, for quashing of F.I.R. No.67 dated 16.04.2011, under Sections 406 and 420 of Indian Penal Code registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib, on the basis of compromise effected between the parties. Allegations in the FIR are that the petitioners had entered into an agreement to sell dated 11.05.2010 for land measuring 16 Bighas 1/2 Biswa i.e., 3201/2 /450 share out of Khewat No.75/123 to 126 comprising in Khasra No.324/1/1 (22-10) and earnest money of `27,00,000/-was paid by the complainant to the petitioners. It was also the allegation in the FIR that at the time of execution of said agreement to sell, there was a passage of 19" width in the eastern side of the property and said recital of 19" wide passage was the basic condition for agreeing to purchase the property. Subsequently, the dispute arose between the parties only because of the passage and the present FIR was registered.

2. Learned Counsel for the petitioners submits that the dispute was only because of some misunderstanding and with the intervention of the respectable, the dispute has been settled by way of compromise as the land in dispute has been transferred by way of transfer deed dated 16.02.2012 (Annexure P-2). The complainant is not willing to pursue the FIR because of the compromise entered into between the parties.

3. Notice of motion was issued in the case on 01.03.2012.

4. Vide order dated 25.04.2012, parties were directed to appear before the Illaqa Magistrate for recording of their statements with regard to the compromise and the Illaqa Magistrate was directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Illaqa Magistrate was also directed to send a report along with the statements of the parties with regard to validity and otherwise of the compromise.

5. In response to the said directions issued by this Court, a report in this regard has been sent by the Sub Divisional Judicial Magistrate, Amloh, which is on record along with the statements of the parties wherein it has been mentioned that the compromise is not result of fraud or coercion and the parties have entered into compromise voluntarily, without any pressure.

6. Complainant has specifically stated in the statement that he has no objection in quashing of the FIR and other proceedings arising there from.

7. 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 larger interest of the societal peace and harmony and in order to save both the families from avoidable litigation, the compromise arrived at between them is accepted by this Court.

8. 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. (Cri) 1052 that compounding of offence which are not compoundable u/s 320(9) Cr.P.C., offence non-compoundable but parties entering into compromise, High Court has the power u/s 482 Cr.P.C. 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.

9. 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 (Criminal) 426: 2005(2) Apex Criminal 424: 2005 (2) Law Herald 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 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.

10. No embargo, be in the shape of section 320 (9) Cr.P.C. or any other such curtailment, can whittle down the power u/s 482 Cr.P.C.

11. 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, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of litigation.

12. 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 Cr.P.C., in order to prevent the abuse of the process of law and to secure the ends of justice.

13. The power u/s 482 Cr.P.C. 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 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 utmost

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 make some endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

14. 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 the 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 upon the facts and circumstances 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). For the reasons recorded above and having regard to the principles laid down by the Five-Judges Bench of this Court in Kulwinder Singh's case (supra), this petition is allowed and impugned criminal proceedings arising out of F.I.R. No.67 dated 16.04.2011, under Sections 406 and 420 IPC registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib as well as all subsequent proceedings arising there from are hereby quashed qua the petitioners, namely, Aman Bhatia, Rohit Singla and Jimmy Puri.