

Lavinder Kumar and Others Vs State of Haryana and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 18, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 320(9), 438, 482
Penal Code, 1860 (IPC) â€” Section 406, 498A

Citation: (2011) 7 RCR(Criminal) 2607

Hon'ble Judges: Daya Chaudhary, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Daya Chaudhary, J.

The present petition u/s 482 Code of Criminal Procedure has been filed on behalf of Lavinder Kumar, Subhash

Chander, Pushpa Devi and Romi Grover for quashing of FIR No. 99 dated 5.3.2010 registered under Sections 406 and 498-A IPC at Police

Station Ambala City, Tehsil and District Ambala, on the basis of compromise (Annexure P-2).

2. Notice of motion was issued on 14.12.2010 and vide order dated 18.1.2011 parties were also directed to appear before the trial Court for

recording of the statements with regard to compromise. The trial Court was also directed to send a report after recording the statements of the

parties and to verify whether the said compromise is genuine and is not the result of any pressure or coercion from either of the parties.

3. A report in this regard has been sent by the trial Court, which is also on record.

4. Learned Counsel for the Petitioners submits that in compliance of order passed by this Court on 18.1.2011, statements of the parties were

recorded and the complainant has specifically stated before the trial Court that the compromise was not the result of any threat, pressure, greed or

any kind of undue influence. The complainant has also stated in her statement that she has no objection in quashing of the FIR. Statement of the

complainant as well as her affidavit have been annexed with the petition.

5. Learned State counsel has also affirmed the factum of compromise between the parties.

6. After hearing the 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 herself 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.

7. 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.

8. 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(2) Apex Cri. 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 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.

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 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-Debita 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 a role of paramount importance in achieving peace,

harmony and everlasting 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 list

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 impugned criminal proceedings arising out of FIR No. 99 dated 5.3.2010 registered under

Sections 406 and 498-A IPC at Police Station Ambala City, Tehsil and District Ambala as well as all subsequent proceedings arising therefrom

are quashed.