

(2012) 09 P&H CK 0286

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-13293 of 2012 (O and M)

Ram Phal

APPELLANT

Vs

State of U.T. Chandigarh and
Others

RESPONDENT

Date of Decision: Sept. 13, 2012

Acts Referred:

- Arms Act, 1959 - Section 25
- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Penal Code, 1860 (IPC) - Section 307, 394

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Advocate: Vikas Kumar, for the Appellant; Preetpal, APP, U.T. Chandigarh and Mr. Balraj Singh, Advocate, for respondents No. 2 and 3, for the Respondent

Final Decision: Allowed

Judgement

Vijender Singh Malik, J.

Ram Phal, the petitioner has brought this petition under the provisions of section 482 Cr. P.C., for quashing of FIR No. 127 dated 25.03.2012 registered at Police Station Sector 39, Chandigarh for an offence punishable u/s 307 of Indian Penal Code and section 25 of the Arms Act alongwith all the subsequent proceedings arising out of the same, on the basis of compromise arrived at between the parties. On notice of the petitions, besides State counsel, respondents No. 2 and 3 have appeared before me along with their counsel, Mr. Balraj Singh, Advocate. They have admitted that the matter has been compromised between the parties.

2. Vide orders dated 25.7.2012 passed by this court, the parties were directed to appear before learned trial court on 08.08.2012 in order to make statements there with regard to the compromise arrived at between them. Learned Judicial Magistrate Ist Class, Chandigarh recorded statements of the parties and submitted

his report vide letter dated 11.8.2012. According to him, the parties have compromised the matter.

3. Compromise brings not only peace and harmony between the parties to a dispute but restores tranquility in the society. Taking restoration of peace and harmonious relations as the prime concern of law, it was held in Dharambir Vs. State of Haryana, 2005 (3) RCR (Cri) 426 by this court that even if a matrimonial offence is non compoundable, a case regarding the same could be quashed on the basis of compromise between the parties to achieve the aforesaid object.

4. A Larger Bench of five Hon`ble Judges of this court in Kulwinder Singh and others Vs. State of Punjab and another 2007 (3) RCR (Cri) 1052, has taken the following decision regarding the other offences:-

29. 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.

5. Therefore, the quashing of FIRs in non-compoundable offences is not limited to matrimonial disputes only and the FIR for the other offences could also be quashed. Though, the offence u/s 307 IPC is serious, yet in a serious case for an offence punishable u/s 394 IPC, Hon`ble Supreme Court of India in Shiji @ Pappu and others Vs. Radhika and another 2012 (1) RCR (Cri) 9 has ordered quashing of FIR and for that reason, to achieve the beneficial effect of compromise, the offence in hand could be quashed. However, before accepting the petition and quashing the proceedings, the court has to satisfy itself that the compromise is just and fair in which no party is taking undue benefit. Simultaneously, it has to be seen that the compromise is free from undue pressure. Once it is found that the compromise is just and fair and is not brought about by undue pressure of one party upon the other, the court has to then see that the quashing would secure the ends of justice or would prevent abuse of process of law.

6. On questioning respondents No. 2 and 3, they have stated that no cause of friction is left between the parties. This compromise can certainly be said to be one arrived at to secure the ends of justice. Nothing appears to the court to be suggestive of any pressure, much less undue pressure on the respective parties for this compromise. Undue benefit is also not seen to be derived by any party in the matter of compromise. They are represented by counsel of their choice and, therefore, expert legal advice is also available to them. Keeping in view the aforesaid facts, continuation of the prosecution for the aforesaid offence, in the said FIR where respondents No. 2 and 3 would not be ready to support the allegations against each other, would be a futile exercise. Therefore, I accept the petition and

quash FIR No. 127 dated 25.03.2012 registered at Police Station Sector 39, Chandigarh for an offence punishable u/s 307 IPC and section 25 of the Arms Act alongwith all the subsequent proceedings arising out of the same.