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Inder Sekhon and Others Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 20, 2012

Acts Referred: Bonded Labour System Abolition Act, 1976 â€" Section 16, 18
Criminal Procedure Code, 1973 (CrPC) â€" Section 320, 482
Penal Code, 1860 (IPC) â€" Section 120B, 320, 323, 342, 506

Hon'ble Judges: Rameshwar Singh Malik, J

Bench: Single Bench

Advocate: Sudhir Sharma, for Mr. A.K. Walia, for the Appellant; Anupam Sharma, AAG, Haryana and Mr. Gaurav Jindal, Advocate for Respondents No. 2 and 3, for the Respondent

Final Decision: Allowed

Judgement

Rameshwar Singh Malik, J.
The petitioners have approached this Court, by way of instant petition u/s 482 of the Code of Criminal

Procedure (for short "Cr. P.C."), invoking its inherent jurisdiction for quashing of FIR No. 50 dated 26.2.2011, under Sections 323, 342, 506,

120B of the Indian Penal Code ("IPC" for short), and Sections 16 and 18 of Bonded Labour System (Abolition) Act, 1976, registered at Police

Station Sector-5, Panchkula and the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2). Notice of motion

was issued.

2. In compliance of the order dated 17.7.2012 passed by this Court, the parties got their statements recorded before the learned trial court.

Consequently, report sent by the learned Chief Judicial Magistrate, Panchkula, has been received which is available on record of the case, along

with the statements of the parties. Learned Magistrate has reported that the parties have made their statements voluntarily and without any

pressure. The compromise arrived at between the parties has been found to be a genuine one.

3. Learned counsel for the petitioners submits that the parties have decided to bury the hatchet and are living peacefully. Learned counsel for the

petitioners further submits that continuation of the impugned FIR and subsequent criminal proceedings arising therefrom, are liable to be quashed in

the interest of justice.

4. Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that it is a

fit case for exercising the inherent jurisdiction of this Court u/s 482 Cr. P.C., so as to secure the ends of justice. I say so because the parties have

arrived at an out of Court settlement by way of compromise (Annexure P-2). The compromise is without any pressure and a genuine one. In such

a situation, continuation of the prosecution would result in sheer abuse of process of law.

5. In the case of Madan Mohan Abbot Vs. State of Punjab, the Apex Court emphasised and advised as under:-

We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should

ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the

prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding

more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities

of the law.

6. The view taken by this Court also finds support from the recent judgment of the Hon"ble Supreme Court of India in Shiji @ Pappu and others

versus Radhika and another, 2012 (1) RCR (cri.) 9 and from the larger Bench of this Court in Kulwinder Singh and others versus State of Punjab

and another reported as 2007 (3) RCR (cri.) 1052. The observations made by the Hon"ble Supreme Court in para 13 of the judgment in Shiji"s

case (supra), which can be gainfully followed in the present case, read as under:

It is manifest that simply because an offence is not compoundable u/s 320 IPC is by itself no reason for the High Court to refuse exercise of its

power u/s 482 Cr. P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the

accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by

the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution u/s 482 Cr. P.C.

on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence

based on a settlement arrived at between the parties in cases where the offences are not compoundable u/s 320, the High Court may quash the

prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High

Court u/s 482 Cr. P.C. are not for that purpose controlled by Section 320 Cr. P.C. Having said so, we must hasten to add that the plenitude of

the power u/s 482 Cr. P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the

nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear

view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to

enumerate the situations in which the exercise of power u/s 482 may be justified. All that we need to say is that the exercise of power must be for

securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court

may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing

with a petition u/s 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of

each case to determine whether it is a fit case in which the inherent powers may be invoked.

7. Reverting to the facts of the present case, this Court has satisfied itself that the compromise arrived at between the parties is a genuine one. They

have got their statements recorded voluntarily before the learned trial court. In view of the genuine compromise arrived at between the parties and

also in view of the report received from the learned trial court, I have no hesitation to conclude that the continuation of the prosecution any further

would be nothing but sheer abuse of the process of law. It would result in wastage of valuable time of the Court because no chance of conviction is

left.

8. In the totality of the facts and circumstances of the present case, noted above, coupled with the reasons aforementioned and to secure the ends

of justice, FIR No. 50 dated 26.2.2011, under Sections 323, 342, 506, 120B IPC and Sections 16 and 18 of Bonded Labour System (Abolition)

Act, 1976, registered at Police Station Sector-5, Panchkula including the consequential proceedings arising therefrom, are ordered to be quashed

only qua the petitioners, namely Inder Sekhon, Raj Kanwal, Ravinder Sekhon, Deepika-petitioners No. 1 to 4, respectively. Resultantly, instant

petition stands allowed.