

Harinder Singh and Others Vs State of Punjab and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 21, 2013

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 482
Penal Code, 1860 (IPC) â€” Section 323, 34, 406, 498A

Hon'ble Judges: Daya Chaudhary, J

Bench: Single Bench

Advocate: G.S. Nahel, for the Appellant; P.S. Hundal, AAG Punjab, for the Respondent

Final Decision: Allowed

Judgement

Daya Chaudhary, J.

The present petition has been filed on behalf of the petitioners, namely Harinder Singh, Pala Singh, Khanda Singh and Manjeet Kaur for quashing of FIR No. 47 dated 26.02.2013, registered u/s 498A, 406, 323, read with Section 34 IPC at Police Station Sadar

Dhuri, District Sangrur and all the subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties. A

complaint was made by Sukhwinder Singh-respondent No. 2, who is father of respondent No. 3 alleging therein that the demands of dowry were

being made by the husband and his family members. However, with the intervention of respectables, the matter has been compromised and the

complainant as well as respondent No. 4 have submitted their affidavits regarding the compromise. Even as per the directions issued by this Court

on 14.05.2013, parties were directed to appear before the trial Court for recording of their statements with regard to compromise and the same

has been recorded by the trial Court. A report along with statements of the parties have been sent to this court which are on record. As per report,

the compromise is genuine and without any pressure, coercion or undue influence. The complainant does not want to pursue the case. Since, the

dispute has been settled between the parties and complainant/aggrieved have no objection in quashing of FIR. The purpose of compromise is to

maintain peace, harmony and the relations amongst themselves and in the society.

2. Keeping in view the judgment in the case Kulwinder Singh and others Vs. State of Punjab and others, reported as 2007 (3) RCR (Cri) 1052,

the Larger Bench of our own High Court has held that the High Court has the wide power to quash the proceedings even in non-compoundable

offences, notwithstanding the bar u/s 320 of Criminal Procedure Code in order to prevent abuse of the process any Court or to secure the ends of

justice. In Kulwinder Singh's case (supra), the Larger Bench has observed as under:

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 enmity 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.

3. The Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab, emphasised para 6, which reads as follows:-

6. We need to emphasize 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 utilized 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.

4. Hon"ble the Supreme Court in the case of B.S. Joshi and Others Vs. State of Haryana and Another, held as under:-

6. In Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, this Court with reference to Bhajan Lal's case observed that the

guidelines laid therein as to where the court will exercise jurisdiction u/s 482 of the Code could not be inflexible or laying right formulate to be

followed by the Courts. Exercise of such power would depend upon the fact and circumstances of each case but with the sole purpose to prevent

abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where

there is more power, it becomes necessary to exercise utmost care and caution which invokes such powers.

11. In Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandrojirao Angre and Others, , it was held that while exercising inherent

power of quashing u/s 482, it is for the High Court to take into consideration any special features which appears in a particular case to consider

whether it is expedient and in the interest of justice to permit a prosecution to continue.

Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a

criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

5. Furthermore, the Hon"ble Supreme Court in Preeti Gupta and Another Vs. State of Jharkhand and Another, , the Court has observed as under:

28. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country

including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people

of the society.

30. It is a matter of common experience that most of these complaints u/s 498-A Indian Penal Code are filed in the heat of the moment over trivial

issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique

motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in

majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the

conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these

complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband"s

close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an

entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals

that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of

common knowledge that in cases filed by the complainant if the husband or the husband"s relations had to remain in jail even for a few days, it

would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

6. 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 does not want to pursue these proceedings and it shall merely be a formality

and sheer wastage of precious time of the Court as complainant is not going to support the case of prosecution in view of compromise arrived at

between them. Accordingly, this petition is allowed and FIR No. 47 dated 26.02.2013 registered u/s 498A, 406, 323, read with Section 34 IPC

at Police Station Sadar Dhuri, District Sangrur, qua the petitioners, namely, Harinder Singh, Pala Singh, Khanda Singh and Manjeet Kaur, are

hereby quashed.