(2013) 09 P&H CK 0435

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-12122 of 2013 (O and M)

Harish Sharma		APPELLANT
	Vs	
State of Haryana and Another		RESPONDENT

Date of Decision: Sept. 13, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Penal Code, 1860 (IPC) - Section 354

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Parminder Singh, for the Appellant; Gaurav Dhir, DAG, Haryana, Respondent No. 2 in person and Mr. I.P.S. Mangat, for the Respondent

Final Decision: Allowed

Judgement

Sabina, J.

Petitioner has filed this petition u/s 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 181 dated 7.9.2002, u/s 354 of the Indian Penal Code ("IPC for short), registered at Police Station Butana, District Karnal (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of compromise dated 26.7.2012 (Annexure P-4) arrived at between the parties. Learned counsel for the petitioner as well as counsel for respondent No. 2 have submitted that now the parties have amicably settled their dispute.

2. Respondent No. 2 is present in person along with her counsel and has admitted the factum of compromise between the parties and has stated that she has no objection if the FIR in question is ordered to be quashed. Respondent No. 2 has filed her short reply by way of an affidavit on record in this regard.

3. As per the Full Bench judgment of this Court in Kulwinder Singh and Others Vs. State of Punjab and Another, , High Court has power u/s 482 Cr.P.C. to allow the

compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

4. Hon''ble the Apex Court in the case of Gian Singh Vs. State of Punjab and Another, , has held as under:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim''s family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

5. Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue. Accordingly, this petition is allowed. FIR No. 181 dated 7.9.2002, u/s 354 IPC, registered at Police Station Butana, District Karnal (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed.