

(2010) 11 P&H CK 0584

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M 24393 2010 (O and M)

Kulbir Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: Nov. 17, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Penal Code, 1860 (IPC) - Section 420, 465, 467, 468, 471

Hon'ble Judges: JaswantSingh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Jaswant Singh, J.

Crl. Misc. No. 43416 of 2010

Allowed as prayed for.

Crl. Misc. No. M 24393 of 2010

Prayer is u/s 482 Code of Criminal Procedure for quashing of FIR No. 67 dated 23.6.2010 under Sections 420, 465, 467, 468, 471 of Indian Penal Code registered with Police Station Sector Nurpur Bedi, District Rupnagar and the subsequent proceedings arising therefrom on the basis of compromise dated 13.08.2010(P2) arrived at between the accused-Petitioners and the Respondent No. 2-complainant.

As per allegations in the FIR Respondent No. 2-complainant Shingara Singh stated that he was having three brothers namely Sadha Singh, Sarwan and Mohinder Singh sons of Sidhu and one sister Gurmeet Kaur who is already married. Father of the complainant was not keeping good health and due to old age he executed a registered Will dated 6.6.2007 in favour of his three sons i.e complainant and Sadha Singh and Sarwan and in the name of sons of deceased brother Mohinder Singh

namely Onkar Singh and Kulbir Singh. Complainant and his brothers Sadha Singh and Sarwan are totally illiterate. Onkar Singh and Kulbir Singh both sons of deceased Mohinder Singh brother of the complainant in connivance with the scribe Vijay Kumar deed writer and witness Darshan Singh, brother-in-law of Onkar Singh in order to cheat the complainant played fraud with him and got executed the same Will wherefrom the name of the complainant is found to be missing. On the basis of the aforesaid forged and fabricated will the estate of the father of the complainant Sidhu was got transferred in their names vide mutation No. 1350. Thereafter the complainant made enquiry and lodged the present FIR.

Upon notice of motion parties appeared and were directed to appear before the learned Illaqa Magistrate for getting their statements recorded in terms of the compromise and submit its report regarding the genuineness of the compromise.

Report (Mark-A) in the shape of letter dated 26.10.2010 of learned Sub Divisional Judicial Magistrate, Anandpur Sahib along with report has been received wherein it is stated that the parties appeared before that court and suffered statements recorded separately in terms of the compromise and stated that the matter between the parties has been compromised and he has no objection if the aforesaid FIR and all consequential proceedings are quashed against the Petitioners.

From the report submitted it is evident that the dispute between the Petitioners-accused and the complainant has been amicably resolved by entering into compromise wherein the complainant has stated that he has no objection if the present FIR against the Petitioners-accused is quashed.

Learned State Counsel on instructions from ASI Avtar Singh submits that the challan has not been presented in this case and is unable to raise any serious objection in view of the statements recorded in terms of the aforesaid compromise whereby the complainant is not willing to support the case of the prosecution.

Hon'ble Supreme Court in [B.S. Joshi and Others Vs. State of Haryana and Another](#), has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers u/s 482 of the Code.

A Full Bench of this Court in Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007(3) RCR 1052 has also held that this Court, in appropriate cases, while exercising powers u/s 482 Cr.P.C., may quash an FIR disclosing the commission of non-compoundable offences. The relevant extracts read as under:

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.

Hon'ble Apex Court in another case in [Nikhil Merchant Vs. Central Bureau of Investigation and Another](#), while relying upon its decision in B.S. Joshi's case(supra) has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in [Madan Mohan Abbot Vs. State of Punjab](#), , the relevant extract of which is 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.

Keeping in view the above settled legal position and taking into account the fact that the dispute is between the family members which is of personal nature and the fact that both the parties have desired to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no legal impediment in the way of the Court to exercise its inherent powers u/s 482 Cr.P.C., for quashing of the FIR in the interest of justice.

Accordingly, the present petition is allowed and FIR No. 67 dated 23.6.2010 under Sections 420, 465, 467, 468, 471 of Indian Penal Code registered with Police Station Sector Nurpur Bedi, District Rupnagar as well as the subsequent proceedings arising therefrom are quashed against the Petitioners.