(2012) 11 P&H CK 0166

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-31426 of 2012 (O and M)

Jiwanjeet Singh and Another		APPELLANT
	Vs	
State of Punjab and Another		RESPONDENT

Date of Decision: Nov. 19, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Penal Code, 1860 (IPC) - Section 120B, 320, 420, 465, 467

Citation: (2013) 1 RCR(Criminal) 764

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Charan Jit Sharma, for the Appellant; K.D.S. Sidhu, Addl. A.G., Punjab, Respondent No. 2 in person with Mr. Amit Jaiswal, for the Respondent

Final Decision: Allowed

Judgement

Sabina, J.
Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure, 1973 for quashing of the FIR No. 164 dated 31.10.2011, u/s 420, 465, 467, 468, 471, 120-B of the Indian Penal Code (''IPC'' for short), registered at Police Station City Abohar, District Ferozepur (Annexure P-1) and all the consequential proceedings arising therefrom in view of compromise dated 15.9.2012 (Annexure P-2) arrived at between the parties. Learned counsel for the petitioners has submitted that now with the intervention of relatives and friends, parties have arrived at a compromise.

2. Respondent No. 2 is present in person along with his counsel and has admitted the factum of compromise between the parties and has stated that he has no objection if the FIR in question is ordered to be quashed. He has tendered on record his short reply by way of affidavit 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 Nikhil Merchant Vs. Central Bureau of Investigation and Another, Recent Apex Judgments (R.A.J.) 156: JT 2008 (9) SC 192 in para Nos. 23 and 24 has held as under:-

23. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi''s case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit tilled by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

5. In case of Shiji @ Pappu and Others Vs. Radhika and Another, (6) Recent Apex Judgments (R.A.J.) 210, the Hon''ble Apex Court in para No. 13 has held as under:-

13. 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.

6. 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. 164 dated 31.10.2011, u/s 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station City Abohar, District Ferozepur (Annexure P-1) and all the consequential proceedings, arising therefrom, are quashed.