

Opender Pal Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 24, 2014

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 482
Penal Code, 1860 (IPC) â€” Section 148, 149, 323, 354-B, 452

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Sandeep Kumar Yadav, Advocate for the Appellant; Satyawan Rathee, Deputy Advocate General and Ram Darshan Yadav, Advocate for the Respondent

Final Decision: Allowed

Judgement

Mehinder Singh Sullar, J.

The matrix of the facts and material, culminating in the commencement, relevant for disposal of the instant

petition and emanating from the record, is that, initially in the wake of complaint of complainant Santosh wife of Birender Singh-respondent No. 2

(for brevity ""the complainant""), a criminal case was registered against the petitioners-accused Opender Pal son of Subhash and others, for having

caused the injuries to complainant, Naveen Kumar and Ashwani Kumar sons of Birender Kumar (respondent Nos. 2 to 4), vide FIR No. 243

dated 11.05.2014 (Annexure P-1), on accusation of having committed the offences punishable under Sections 148, 149, 323, 452, 506 and 354-

B IPC, by the police of Police Station Mohindergarh.

2. During the course of investigation, good sense prevailed and the parties have amicably settled their disputes, by means of compromise dated

24.05.2014 (Annexure P-2) and affidavits of complainant and injured PWs dated 23.05.2014 (Annexures P-3 to P-5).

3. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1)

and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., inter-alia, pleading that both the parties

belong to the same family. They have amicably settled their disputes, by virtue of compromise (Annexure P-2). The complainant and injured PWs

have also filed their respective affidavits (Annexures P-3 to P-5), in this regard. They have redressed their grievances. The complainant and injured

PWs have no objection, if the criminal case registered against the petitioners-accused, by way of impugned FIR (Annexure P-1) is quashed. The

settlement is stated to be in the interest and welfare of the parties. On the strength of aforesaid grounds, the petitioners-accused sought to quash

the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

4. During the course of preliminary hearing, the Magistrate, having the jurisdiction, was directed to record the statements of all the concerned

parties, with regard to the genuineness and validity or otherwise of the compromise (Annexure P-2), by means of order dated 29.05.2014, by this

Court.

5. In compliance thereof, the Magistrate, having recorded the statements of all the concerned parties, has concluded vide his report dated

12.06.2014 that, they have amicably settled their disputes. The compromise arrived between them is valid, genuine and without any kind of

pressure or coercion.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by way of compromise (Annexure P-2). The

factum of compromise is also reiterated in the affidavits of complainant and injured PWs (Annexures P-3 to P-5) and indicated report of the

magistrate. Learned counsel for the complainant has also acknowledged the factum of compromise.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of such criminal disputes by means of amicable settlement

between the parties is no more res integra and is now well-settled.

8. An identical question came to be decided by the Hon"ble Supreme Court in case Gian Singh Vs. State of Punjab and Another, Having

interpreted the relevant provisions and considered a line of the judgments on the pointed points, it was ruled (para 57) 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 predominatingly 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 personnel

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.

Sequely, the same view was again (recently) reiterated by Hon"ble the Apex Court in case Narinder Singh and others vs. State of Punjab and

another, in SLP (Criminal) No. 9547 of 2013, decided on 27.03.2014.

9. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination

in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties

are allowed to compromise the matter. Moreover, the learned counsel are ad idem that, in view of the settlement of disputes between the parties,

the instant petition deserves to be accepted in this context.

11. As is evident from the record that, both the parties belong to the same family. They have amicably settled their disputes, by virtue of

compromise (Annexure P-2). The complainant and injured PWs have also filed their respective affidavits (Annexures P-3 to P-5) in this regard.

They have redressed their grievances. The settlement is stated to be for the welfare, benefit and in the larger interest of the parties. The complainant

and injured PWs have no objection, if the criminal case registered against the petitioners-accused, by way of impugned FIR (Annexure P-1) is

quashed. The factum of compromise is also reiterated in the affidavits of complainant and injured PWs (Annexures P-3 to P-5) and pointed report

of the magistrate.

12. Therefore, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their

wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a

dignified manner. Hence, to me, the ratio of the law laid down and the bench-mark set out by the Hon"ble Supreme Court in Gian Singh's and

Narinder Singh's and others cases (supra), ""mutatis mutandis"" is attracted to the facts of the present case and is the complete answer to the

problem in hand. Likewise, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in

the obtaining circumstances of the case.

13. In the light of the aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No. 243 dated 11.05.2014 (Annexure

P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly discharged, from the

indicated criminal case, on the basis of compromise.