

Surinder Kumar and Others Vs State of U.T. Chandigarh and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: May 30, 2014

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 320, 320(9), 482
Penal Code, 1860 (IPC) â€” Section 120-B, 448, 506

Hon'ble Judges: Mahavir Singh Chauhan, J

Bench: Single Bench

Advocate: R.K. Bamal, Advocate for the Appellant; J.S. Toor, Advocate for Respondents No. 1 and 2 and Ms. Sunint Kaur, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision: Allowed

Judgement

Mahavir Singh Chauhan, J.
Heard.

2. FIR No. 230 dated 28.4.2008, under Sections 448/506/120-B of the Indian Penal Code, 1860 (for short, "IPC), recorded at Police Station,

Sector 34, Chandigarh, on the statement of respondent No. 3-Ram Narain alleging that petitioners had stocked the scrap material in his plot

forcibly. However, now they have settled the matter with private respondents.

3. The parties claim to have compromised the matter vide deed of compromise dated 20.7.2013 (Annexure P2). To find out the veracity of the

compromise as regards its genuineness and consent of parties, vide order dated 1.5.2014, a report was sought from the learned trial Magistrate,

who, vide his report dated 14.5.2014 has stated that after recording statements of the parties concerned, it is found that the compromise has been

effected by the parties of their free will and consent and is without any pressure.

4. The complainant, being represented through counsel, and the learned State counsel have no objection to the quashing of the FIR.

5. From the above it is established that the parties to the lis have resolved the inter se dispute amicably and to live in peace and harmony.

Reference may be made to a Five-Judges Bench decision of this Court in Kulwinder Singh and Others Vs. State of Punjab and Another, , wherein

it has been held as under:

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted

perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of

such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in

the shape of Section 320(9) of the Criminal Procedure Code, or any other such curtailment, can whittle down the power u/s 482 of the Criminal

Procedure Code.

28. 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

of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity 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 of the Criminal Procedure Code 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 a litigation.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent

the abuse of law and to secure the ends of justice.

30. The power u/s 482 of the Criminal Procedure Code is to be exercised Ex Debito Justitia to prevent an abuse of process of Court. There can

neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend

upon the facts and circumstances of each case. The power u/s 482 of the Criminal Procedure Code has no limits. However, the High Court will

exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and

an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace,

harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should

attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent

to lawful composition of the society or would promote savagery.

6. It may also be of benefit to extract from *Gian Singh Vs. State of Punjab and Another*, following observations of the Hon^{ble} Supreme Court of

India:

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-dominantly 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.

7. It is anybody's guess that the parties having entered a compromise, possibility of the trial resulting into conviction of the accused is remote and

bleak and that being so continuation of criminal proceedings would visit the accused with great oppression, prejudice and extreme injustice. Rather

it would be unfair and contrary to the interest of justice, or say abuse of the process of the Court, if the criminal proceedings are allowed to

continue. Ends of justice would be met only if the criminal proceedings are put to an end because this would allow the parties to translate their

desire to live in peace into reality. The only consideration for the compromise reached between the parties seems to be their desire to bury the

hatchet for all times to come. The compromise is also found to be in the interest of public at large, for, it will add to the peace of the society and

will promote peaceful co-existence. The Courts are bound to play role of paramount importance in achieving peace, harmony and ever-lasting

congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and

prompt attention of the Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of

the society or would promote savagery

8. In the consequence, I accept the petition, quash the FIR in question as also the proceedings arising therefrom and discharge the petitioners from

the proceedings.