
Inderjit Singh & Ors. Vs State Of Punjab And Anr

Criminal Miscellaneous Petition (M) No. 7552 Of 2018 (O&M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 20, 2018

Acts Referred:

Code of Criminal Procedure, 1973 " Section 320, 482#Indian Penal Code, 1860 " Section 120B, 420, 467, 468, 471

Citation: (2018) 07 P&H CK 0163

Hon'ble Judges: Rajbir Sehrawat, J

Bench: Single Bench

Advocate: Veneet Sharma, K.S. Aulakh, Sandeep Sharma

Final Decision: Allowed

Judgement

Rajbir Sehrawat, J

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.114 dated 11.08.2016 registered under

Sections 420, 467, 468, 471, 120-B of the Indian Penal Code (for short 'the IPC'), at Police Station 'B' Division, Amritsar City and all consequential

proceedings arising therefrom, on the basis of compromise dated 15.02.2018 (Annexure P-2).

Vide order dated 22.02.2018, the parties were directed to appear before the learned trial Court/Illaq Magistrate, for getting their statements recorded;

as to the genuineness of the compromise. However, they could not appear on the date fixed, then they were granted another opportunity to appear

before the learned trial Court/Illaq Magistrate, for recording their statements.

In compliance thereof, report of Judicial Magistrate Ist Class, Amritsar, dated 10.04.2018, has been received, wherein, it has been noticed that the

matter has been compromised with the intervention of respectables of village and the compromise has been effected with their free consent and

without any pressure or undue influence from any quarter.

The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to

fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil

disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute

freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the

criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The

criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments

and the extreme punishments, including death penalty for criminal acts. However more often than not the civil disputes or inter-se conflicts of two

parties transform themselves into criminal aspect. Therefore, the legal system plays a role to resolve the conflict between two parties; with the

added task of ensuring that the adverse impact of dispute on society at large is minimized. But still the core idea is to resolve the conflict between

two sides by putting it to rest. Therefore, even the criminal law is required to give due regard to the wishes of the parties to dispute. Recognizing this

principle only, the Indian legal System also provides for recognizing the compromise between two sides of a criminal dispute. Section 320 Cr.P.C. is an

express provision in this regard. This section not only provides for compounding during the trial, but permits compounding even at appellate or

revisional stage. However by its very nature and scope, Section 320 Cr.P.C. cannot be the sole repository; wherein the recognition to a compromise

between the parties have; necessarily; to be confined. This section relates only to the offences prescribed under the Indian Penal Code. There are a

lot more offences prescribed outside IPC. Even to the offences existing in the IPC new dimensions are added from time to time, making the existing

offences to be lighter or stringent and even new modalities of proof of offences are being recognised in view of technological advancement. This

necessitates and requires the need for looking beyond Section 320 Cr.P.C. to recognise the compromise between the parties to dispute. But to

maintain the sanctity of the procedure prescribed for criminal trial; the Trial Court cannot be permitted to travel beyond the scope prescribed under

that procedure. Hence the need for invoking Section 482 Cr.P.C. by the High Court.

But, as observed above, the wishes of only parties to the criminal dispute would not always be sufficient to terminate a criminal trial in view of the

patent, latent or subtle effect; their conduct would have left on the society at large. Therefore the offences committed by persons involved in

governance or administration for acquiring official power or while exercising office power cannot be permitted to be compromised. Likewise, even the

offences involving only two private persons, but reflecting depravity of character or involving causing intentional loss of life or causing intentional loss

of property by extending imminent threat of loss of life; cannot be permitted to be compromised. Except the abovementioned grave offences, there is

every reason that all other offences should be permitted to be compromised by the Court. Since the proof of offences before the Court, again would

involve the conduct of the parties to dispute, therefore if the Court does not permit the same to be compromised then the parties would tend to play

tricks upon the Court to ensure the acquittal of accused by subverting the administration of criminal justice. And it is never in the interest of

administration of criminal justice to force the citizen to learn and adopt the tricks designed to be played upon Courts to subvert the justice system. So it

would always be in the interest of justice itself; that the compromise between the parties is recognized and the citizen remain moored and committed

to the essentials of the system of administration of justice, at least, qua those offences, which the interest of society does not permit to be

compromised.

Hon'ble the Supreme Court has amply clarified the legal position on recognizing compromising in the case of Gian Singh Vs. State of Punjab and

another, 2012(4) RCR (Criminal) 543, and has observed 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 under Section 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 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. "The

The present case does not fall in anyone of the exceptions envisaged above. Hence, in view of the report of Judicial Magistrate Ist Class, dated

10.04.2018 made in pursuance of the order dated 22.02.2018 passed by this Court, the Court feels that no useful purpose would be served by keeping

the proceedings alive. It will be in the interest of justice, if the settlement reached between the parties is accepted.

Although, petitioner No.4 did not appear before the trial Court for making statement, however, learned counsel for the complainant admits that the

complainant has compromised the matter qua petitioner No.4-Naresh Kumar also.

Accordingly, the present petition is allowed. FIR No.114 dated 11.08.2016 registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal

Code (for short 'the IPC'), at Police Station 'B' Division, Amritsar City and all consequential proceedings arising therefrom are hereby quashed qua the

present petitioners.