
(2010) 11 P&H CK 0169

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 28341 of 2010

Ajay Malhotra and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 380

Citation : (2010) 11 P&H CK 0169

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jaswant Singh, J.—Prayer is u/s 482 Code of Criminal Procedure for quashing of FIR No. 144 dated 29.7.2008 under Sections 380, 120B of Indian Penal Code registered with Police Station City Moga and all other proceedings arising therefrom on the basis of compromise dated 30.08.2010(P4) arrived at between the accused-Petitioners and the complainant.

2. As per allegations in the FIR complainant along with the Petitioners were running a finance company namely M/s Moga Finvest Registered in partnership. After sometime Gagandeep Kakkar went to USA and deputed Pawan Kumar Kochhar, Ajay Malhotra to look after the finance company on his behalf. When the complainant asked him to settle the accounts he used to refuse on one pretext or the other. Thereafter on 15.6.2008 at about 11.00 AM accused entered the office of finance company in the absence of the complainant and took away the ledger, cash book, other important papers, original partnership deed and Rs. 5.50 lacs in cash. On coming to know about the same, complainant contacted the accused on telephone who threatened him not to disclose the same to anyone otherwise he would be killed. Thereafter complainant lodged the instant FIR.

3. While issuing notice of motion parties 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.

4. Report (Mark-A) in the shape of letter dated 02.11.2010 of learned Chief Judicial Magistrate, Moga 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 complainant has no objection if the aforesaid FIR and all consequential proceedings are quashed against the Petitioners.

5. 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.

6. Learned State Counsel on instructions from ASI Baldev Singh submits that the case is at the stage of recording of prosecution evidence 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.

7. 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.

8. 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 Code of Criminal Procedure, 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 Code of Criminal Procedure, 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 Code of Criminal Procedure, in order to prevent the abuse of law and to secure the ends of justice.

9. Hon''ble Apex Court in another case in J.T. 2008(9) S.C. 192 Nikhil Merchant v. Central Bureau of Investigation and Anr. 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.

10. Keeping in view the above settled legal position and taking into account 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 Code of Criminal Procedure, for quashing of the FIR in the interest of justice.

11. Accordingly, the present petition is allowed and FIR No. 144 dated 29.7.2008 under Sections 380, 120B of Indian Penal Code registered with Police Station City Moga as well as the subsequent proceedings arising therefrom are quashed against the Petitioners.