

(2010) 12 P&H CK 0347

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 24794 of 2010

Ajmer Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 148, 149, 320, 323, 452

Citation : (2010) 12 P&H CK 0347

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 case FIR No. 81 dated 12.6.2010 under Sections 452, 323, 148, 149 of IPC registered with Police Station Ahmedgarh, District Sangrur and all the subsequent proceedings arising there from on the basis of compromise dated 27.07.2010 (P2) arrived at between the parties.

2. As per allegations levelled in the FIR, on 9.6.2010 at about 6.00 pm complainant Gurpreet Singh was present in his house, where Petitioners-Ajmer Singh, Varinder Singh and Chaman Singh along with 2/3 unidentified persons came and started abusing the complainant and Ajmer Singh wanted to get the photographs of Cable Operating System. On refusal by the complainant, Petitioner Chaman Singh armed with Iron rod like kirch, gave blow and in order to save complainant raised his hands and received injuries on his left hand and other accused gave fist blows to the complainant. Thereupon the present FIR was got registered by the complainant.

3. While issuing notice of motion parties were directed to appear before the learned trial court/Illaq Magistrate for getting their statements recorded in terms of the compromise who after recording their statements was required to submit its reports regarding genuineness of compromise.

4. Report (Mark-A) in the shape of letter dated 08.09.2010 of learned Judicial Magistrate Ist Class, Malerkotla duly forwarded by learned District & Sessions Judge, Sangrur vide letter dated 11.12.2010 accompanied by photocopies of statements of both parties has been received wherein it is stated that the parties appeared before that court and suffered statements recorded separately in terms of the compromise thereby stated that the matter between the parties has been compromised in the FIR 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 HC Pardeep Kumar submits that challan was has not presented in the this case and is unable to raise any serious objection in view of the statements recorded in terms of the aforesaid compromise whereby the complainants are 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 Cr.P.C., 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 Cr.P.C., 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

9. Hon''ble Apex Court in another case in Nikhil Merchant Vs. Central Bureau of Investigation and Another, 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.

10. 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.

11. 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 Cr.P.C., for quashing of the FIR in the interest of justice.

12. Accordingly, the present petition is allowed and FIR No. 81 dated 12.6.2010 under Sections 452, 323, 148, 149 of IPC registered with Police Station Ahmedgarh, District Sangrur and the subsequent proceedings arising there from are quashed against the Petitioners.