
(2010) 08 P&H CK 0192

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-4001 of 2010

Akashdeep Sakhuja and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 30-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 438, 482
Penal Code, 1860 (IPC) — Section 109, 120B, 323, 34, 406

Citation : (2010) 08 P&H CK 0192

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Judgement

Daya Chaudhary, J.—The present petition u/s 482 Cr.P.C. has been filed on behalf of Akashdeep Sakhuja, Rajiv Sakhuja and Rashi @

Seema Sakhuja for quashing of FIR No. 157 dated 26.5.2009 registered under Sections 498-A, 406, 323, 504, 506, 109, 420, 120-B, 34 IPC

at Police Station Shahbad, District Kurukshetra, on the basis of compromise (Annexure P- 2).

2. Notice of motion to the respondents was issued on 10.2.2010.

3. Learned Counsel for the petitioners contends that with the intervention of the relatives and respectables of both the parties, compromise has

been effected between the parties with certain terms and conditions, as mentioned in the compromise, which is annexed as Annexure P-2 with the

petition and complainant-Suman Rani has no objection in quashing of the aforesaid FIR. Learned Counsel has also handed over two demand

drafts bearing Nos. ""250476 and 828254"" dated 16.2.2010 and 23.3.2010 amounting to Rs. 50,000/ - and Rs. 20000/ -, each, respectively, to

the complainant, who is also present in Court, which are duly accepted by her.

4. Complainant-Suman Rani is present in Court and has been identified by H.C. Krishan Lal, who is also present in Court. On the asking of the

Court, she has specifically stated that the matter has been compromised between the parties and she has no objection in quashing of the aforesaid

FIR.

5. After hearing the learned Counsel for the parties, I am of the considered view that continuation of impugned criminal proceedings between the

parties would be an exercise in futility. The complainant herself does not want to pursue these proceedings and it shall be merely a formality and

sheer wastage of precious time of the Court as complainant would not support the case of prosecution in view of compromise between the parties.

It would be in the interest of the parties as well as in the large interest of the society, peace and harmony and in order to save both the families from

avoidable litigation that the compromise arrived at between them is accepted by this Court.

6. It has been observed by Hon"ble the Apex Court in Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, that ""the finest Hour

of Justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."" 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. Relying on the views adopted by the Hon"ble

Supreme Court, the Five Judges Bench of this Court also observed in Kulwinder Singh v. State of Punjab 2007(3) R.C.R. (Cri) 1052 that

compounding of offence which are not compoundable u/s 320(9) Cr.P.C., offence non-compoundable but parties entering into compromise, High

Court has the power u/s 482 Cr.P.C. to allow the compounding of non-compoundable offences and quash the prosecution where the High Court

felt that the same was required to prevent the abuse of the process of Court or to otherwise secure the ends of justice.

7. While dealing with issue of quashing of FIR on the basis of compromise a Bench consisting of Five Hon"ble Judges of this Court in Kulwinder

Singh's case (supra) while approving minority view in Dharambir v. State of Haryana 2005 (3) RCR (Criminal) 426: 2005(2) Apex Criminal 424:

2005 (2) Law Herald 723 (P&H) (FB), opined as under:

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its

power u/s 482, of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent

abuse of the process of any Court" or "to secure the ends of justice.

8. No embargo, be in the shape of Section 320(9) Cr.P.C. or any other such curtailment, can whittle down the power u/s 438 Cr.P.C.

9. 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

Cr.P.C. 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 Cr.P.C. 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.

10. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of

justice.

11. The power u/s 482 Cr.P.C. is to be exercise Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive

list nor the defined parameters 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 Cr.P.C. 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 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 everlasting 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.

12. Compromise in modern society is the sine qua non of harmony and orderly behaviour. As observed by Krishna Iyer J., the finest hour of

justice arrives propitiously when parties despite falling apart, bury the hatchet and weave a sense of fellowship of reunion. Inherent power of the

Court u/s 482 Cr.P.C. is not limited to matrimonial cases alone. The Court has wide powers to quash the proceedings even in non-compoundable

offences in order to prevent abuse of process of law and to secure ends of justice, notwithstanding bar u/s 320 Cr.P.C. Exercise of power in a

given situation will depend on facts of each case. The duty of the Court is not only to decide a list between the parties after a protracted litigation

but it is a vital and extra-ordinary instrument to maintain and control social order. Resolution of dispute by way of compromise between two

warring groups should be encouraged unless such compromise is abhorrent to lawful composition of society or would promote savagery, as held in

Kulwinder Singh's case (supra).

13. For the reasons recorded above and having regard to the principles laid down by the Five -Judges Bench of this Court in case of Kulwinder

Singh's case (supra), this petition is allowed and impugned criminal proceedings arising out of FIR No. 157 dated 26.5.2009 registered under

Sections 498-A, 406, 323, 504, 506, 109, 420, 120-B, 34 IPC at Police Station Shahbad, District Kurukshetra as well as all subsequent

proceedings arising therefrom are quashed.