
(2014) 08 P&H CK 0202
In the Punjab And Haryana At Chandigarh
Case No : CRM M-27878 of 2014

Amandeep Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 19-08-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 306, 307

Citation : (2014) 08 P&H CK 0202

Hon'ble Judges : Paramjit Singh Patwalia, J

Bench : Single Bench

Advocate : Manish Kumar Singla, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Paramjit Singh Patwalia, J.—Instant petition has been filed u/s 482 of the Code of Criminal Procedure for quashing of FIR No. 55 dated 19.06.2013, u/s 306 of the Indian Penal Code, registered at Police Station Bhadson, District Patiala and all subsequent proceedings arising therefrom, on the basis of compromise.

2. Brief facts of the case are that marriage of son of complainant-respondent no. 1, namely, Parvinder Singh was solemnized with Amandeep Kaur-petitioner no. 1, in the year 2006. During the subsistence of marriage, one daughter has born. Petitioner no. 1 used to quarrel with Palwinder Singh, son of complainant-respondent no. 2 and the dispute reached in the Courts which was ultimately compromised. Thereafter, both husband and wife starting residing together. In the compromise reached between the parties, the complainant-respondent no. 2 paid Rs. 7 lacs to his daughter-in-law Amandeep Kaur for rehabilitation, but despite that the deceased Palwinder Singh and Amandeep Kaur used to quarrel. The complainant gave 9 bighas of land and half of the house to his son and daughter-in-law, so that society may not raise finger. But petitioner no. 1 at the instigation of his brother Balwinder Singh continued to harass her husband Palwinder Singh without any reason. Due to repeated harassment at the hands of

the petitioners, Palwinder Singh had consumed some poisonous substance on 18.06.2013 and was admitted to Rajindra Hospital in senseless condition. Due to the act of the petitioners, Palwinder Singh had committed suicide, as a result of which, aforementioned FIR No. 55 dated 19.06.2013 was registered. However, it is submitted that during the pendency of the investigation of the case, a compromise has been effected which does not bear any date. Hence, this petition for quashing of the FIR on the basis of compromise.

3. It is mentioned in the compromise (Annexure P/2) that out of 9 bighas of land which was given to Palwinder Singh, 2 bighas will be transferred in the name of Karnoor Kaur, daughter of petitioner no. 1 and petitioner no. 1 will remain the guardian of the minor. Besides this, other articles are also covered in the compromise but that issue is not relevant for this purpose. The only issue arises in this case is whether FIR can be quashed where serious allegation of instigating a person to commit suicide has been levelled against the petitioners.

4. I have heard learned counsel for the petitioners.

5. Learned counsel for the petitioners vehemently contended that FIR can be quashed on the basis of compromise and reliance has been placed upon judgment of Hon"ble Supreme Court in Gian Singh Vs. State of Punjab and Another, judgment of Five Judges" Bench of this Court in Kulwinder Singh and Others Vs. State of Punjab and Another, judgments of this Court in Amit Kumar @ Khoti vs. State of Punjab, CRM-M-38220 of 2013, decided on 10.01.2014 and Meenu @ Sonia and others vs. State of Punjab and others, CRM-M-6055 of 2012, decided on 25.03.2013.

6. I have considered the contention raised by learned counsel for the petitioner and judgments cited at bar.

7. The law has been reconsidered by the Hon"ble Supreme Court in State of Rajasthan Vs. Shambhu Kewat and Another, and it has been observed as under:-

We find, in this case, such a situation does not arise. In the instant case, the incident had occurred on 30.10.2008. The trial court held that the accused persons, with common intention, went to the shop of the injured Abdul Rashid on that day armed with iron rod and a strip of iron and, in furtherance of their common intention, had caused serious injuries on the body of Abdul Rashid, of which injury number 4 was on his head, which was of a serious nature.

Dr. Rakesh Sharma, PW 5, had stated that out of the injuries caused to Abdul Rashid, injury No. 4 was an injury on the head and that injury was "grievous and fatal for life". PW 8, Dr. Uday Bhomik, also opined that a grievous injury was caused on the head of Abdul Rashid. DR. Uday conducted the operation on injuries of Abdul Rashid as a Neuro Surgeon and fully supported the opinion expressed by PW 5 Dr. Rakesh Sharma that injury No. 4 was "grievous and fatal for life".

We notice that the gravity of the injuries was taken note of by the Sessions Court

and it had awarded the sentence of 10 years rigorous imprisonment for the offence punishable u/s 307 IPC, but not by the High Court. The High Court has completely overlooked the various principles laid down by this Court in Gian Singh (Supra), and has committed a mistake in taking the view that, the injuries were caused on the body of Abdul Rashid in a fight occurred at the spur and the heat of the moment. It has been categorically held by this Court in Gian Singh (supra) that the Court, while exercising the power u/s 482, must have "due regard to the nature and gravity of the crime" and "the social impact". Both these aspects were completely overlooked by the High Court. The High Court in a cursory manner, without application of mind, blindly accepted the statement of the parties that they had settled their disputes and differences and took the view that it was a crime against "an individual", rather than against "the society at large".

We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be non-compoundable, because the Code has identified which conduct should be brought within the ambit of non-compoundable offences. Such provisions are not meant, just to protect the individual, but the society as a whole. High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by any one and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful co-existence and welfare of the society at large.

8. Hon"ble Supreme Court in Narinder Singh and Others Vs. State of Punjab and Another, has laid down the principles while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings, which read as under:-

31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power u/s 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred u/s 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences u/s 320 of the Code. No doubt, u/s 482 of the Code, the High Court has inherent power to quash the criminal

proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences u/s 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge u/s 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible

for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power u/s 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power u/s 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence u/s 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved u/s 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

9. In the present case, the offence is of serious nature. In view of the serious allegations against the petitioners and the law laid down by the Hon''ble Supreme Court, FIR cannot be quashed on the basis of compromise.

10. In view of above, instant petition is dismissed.