
(2010) 10 P&H CK 0342
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-18393 of 2010

Ashwani Kumar alias Toni and Others	APPELLANT
Vs	
State of Haryana and Another	RESPONDENT

Date of Decision : 25-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2010) 10 P&H CK 0342

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—The conspectus of the facts, which need a necessary mention for a limited purpose of deciding the core controversy involved in the instant petition and emanating from the record, is that in the wake of complaint of complainant Smt. Poonam Anand (Respondent No. 2), a criminal case was registered against the Petitioners-accused, vide FIR No. 27 dated 30.1.2009 (Annexure P-1), on accusation of having committed the offences punishable under Sections 420, 467, 468, 471 and 120-B IPC by the police of Police Station Shahabad, Distt. Kurukshetra.

2. Concisely, the prosecution claimed that one Malik Kharaiti Lal (since deceased) was the owner of the property in question. A dispute arose with regard to his property. The complainant claimed that although the deceased suffered a decree in favour of his two sons namely, Ashwani Kumar (Petitioner No. 1-accused) and his other pre-deceased son Parveen Kumar (husband of the complainant), but Ashwani Kumar, his wife and son tampered with the decree and produced the same in the office of Municipal Council showing himself (Ashwani Kumar) to be owner of the entire property. On the basis of aforesaid allegations and in the wake of complaint of the complainant, the present case was registered against the accused, in the manner indicated here-in-above.

3. After completion of the investigation, the police submitted the final police report/challan against the accused. During the pendency of the case, the matter was compromised between the parties. They have settled all their civil and criminal disputes, which is clear from the civil Court proceedings (Annexure P-3). They have decided to live peacefully.

4. That being so, now the Petitioners have filed the instant petition for quashing the FIR (Annexure P-1), challan (Annexure P-2) and all other subsequent proceedings thereto on the basis of compromise, invoking the provisions of Section 482 Code of Criminal Procedure, inter-alia pleading that complainant Poonam Anand (Respondent No. 2) and all other persons have mutually compromised the matter. The compromise between the parties (Ex.C-1) was even implemented by the civil Court, which is clear from proceedings (Annexure P-3). Accordingly, the parties made their statements (Annexures P-4 to P-9) reiterating the factum of compromise. Implementing the compromise (Ex.C-1), the civil Court passed the following order (Annexure P-10):

File taken up today on an application moved on behalf of Plaintiff. Fresh power of attorney on behalf of Defendants filed. Parties appeared in person. Joint statement of Plaintiffs and Defendants recorded vide which they have stated that the matter has been compromised between the parties and compromise is Ex.C-1, which is correct. General Power of Attorney of Karon Kumar is also placed on record, which is Ex.C-2. Both the parties stated that they suit be decided as per compromise.

Plaintiffs also suffered statement separately to the effect that in view of the joint statement and compromise Ex.C-1, they withdraw the present suit. The statements of the parties has been identified by their counsel. Heard. In view of the statements, the present suit is hereby dismissed as withdrawn. Parties are bound by their statements. Compromise and site plan are part of their statements. Parties are at liberty to get the Municipal Records changed accordingly. File be consigned to the record room, after due compliance.

5. Meaning thereby, it stands proved on record that the parties have settled all their disputes. Such thus being the position on record, now the sole question that arises for determination in this petition is as to whether it would be expedient in the interest of justice to quash the criminal prosecution or not?

6. Having regard to the rival contentions of the learned Counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to me, justice would be sub-served if the parties are allowed to compromise the matter in this relevant behalf.

7. The law of settlement of criminal disputes by virtue of compromise is not res-integra and is well settled. The clear and explicit intention of the Legislature in this context was transformed in reality by Hon"ble Apex Court in cases Manoj Sharma v. State and Ors. 2008 (4) RCR 827; B.S. Joshi v. State of Haryana 2003 (2) RCR 888 (SC) and Full Bench of this Court in case Kulwinder Singh and Ors.

v. State of Punjab and Anr. 2007 (3) RCR 1052.

8. The epitome of the law laid down in the aforesaid judgments is that the power u/s 482 Code of Criminal Procedure has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The Court is a 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 and 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 if the statement is fair being free from under pressure. Meaning thereby, the High Court has unlimited power to quash the criminal proceedings, relatable to such property disputes, on the basis of lawful settlement. The law laid down in the aforesaid judgments "mutatis mutandis" is fully applicable to the present case and is the complete answer to the problem in hand.

9. As the parties have lawfully agreed to settle the dispute, therefore, to my mind, there is no impediment in translating the wishes of the parties into reality and to quash the criminal prosecution to set the matter at rest to enable them to live in peace and to enjoy the life and liberty in a dignified manner as guaranteed by and as contemplated in the Constitution of India.

10. In the light of the aforesaid reasons, the instant petition is hereby accepted. Consequently, FIR No. 27 dated 30.1.2009 (Annexure P-1), challan (Annexure P-2) and all other subsequent proceedings thereto are quashed as well and the Petitioners are discharged, in the obtaining circumstances of the case.