
(2010) 12 P&H CK 0498

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 22445 of 2010 (O and M)

Avtar Singh Mundi

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2010) 12 P&H CK 0498

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sabina, J.—Petitioner has filed this petition u/s 482 of the Code of Criminal Procedure for quashing of FIR No. 266 dated 6.11.2004, under Sections 406, 420 of Indian Penal Code (in short "IPC"), registered at Police Station Tanda, District Hoshiarpur and consequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

2. Learned Counsel for the Petitioner has submitted that now the parties have settled their dispute. The amount in question i.e. Rs. 17 lacs have been paid to Respondent No. 2. Respondent No. 2 has returned 7 cheques to the Petitioner which were issued by the Petitioner by way of security.

3. Respondent No. 2, who is present in person along with his counsel, has submitted that he had earlier received Rs. 13,50,000/-. Today he has received a draft of Rs. 3,50,000/-and has thus received the total amount in question. Respondent No. 2 has further stated that he has no objection if the FIR in question is ordered to be quashed. Reply by way of affidavit of Respondent No. 2 in this regard has been placed on record.

4. As per the Full Bench judgment of this Court in Kulwinder Singh and Ors. v. State of Punjab 2007 (3) RCR (Criminal) 1052, High Court has power u/s 482

Code of Criminal Procedure to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

5. Hon"ble the Apex Court in the case of Nikhil Merchant Vs. Central Bureau of Investigation and Another, in para Nos. 26 and 24 has held as under:

26. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the Appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facts. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of the Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filled by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

6. Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

7. Accordingly, the present petition is allowed. The FIR No. 266 dated 6.11.2004, under Sections 406, 420 IPC, registered at Police Station Tanda, District Hoshiarpur and consequent proceedings, arising therefrom, are quashed.