

(2010) 12 P&H CK 0206

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M. 34288 of 2010

Bhaskar Sharma and Others

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 17-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 365, 392

Citation : (2010) 12 P&H CK 0206

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jaswant Singh, J.—Petitioners No. 1 to 8 claim themselves to be employees and agents of M/s Mohindra and Mohindra Financial Service, Sirsa, dealing in the business of giving loans on hypothecated old and new vehicles. They have approached this Court u/s 482 Code of Criminal Procedure for quashing of FIR No. 10 dated 11.1.2006 under Sections 365, 392 IPC registered with Police Station Sadar Dabwal, District Sirsa and all consequential proceedings arising therefrom, on the basis of compromise (P1) having effected with complainant-Respondent No. 2 Om Parkash.

2. As per allegations levelled in the FIR, complainant who is Principal of Adarsh Senior Secondary School, had taken a loan of Rs. 3.65 lacs towards the purchase of Mohindra Loadking Vehicle for picking the children from their houses to school and drop them from school to their houses and on his failure to repay the instalments on 11.1.2006 when the driver of the aforesaid vehicle was taking the children from school to drop them at their residence then in the way he was stopped and all the children were forcibly brought down from the vehicle and the vehicle was taken away by the Petitioners. Resultantly the aforesaid FIR was lodged.

3. Learned Counsel for the Petitioners submits that case is at the stage of

recording of prosecution evidence.

4. While issuing notice of motion parties were given liberty to appear before the learned Illaqa 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.

5. Report (Mark-A) in the shape of letter dated 08.12.2010 of learned Judicial Magistrate Ist Class, Mandi Dabwali duly forwarded by the learned District & Sessions Judge, Sirsa, Haryana 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.

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 is unable to raise any serious objection in view of the statement recorded in terms of the aforesaid compromise whereby the complainant is 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 Code of Criminal Procedure , may quash an FIR disclosing the commission of noncompoundable offences. The relevant extracts read as under:

The only inevitable conclusion from the above discussion is that there is no statutory bar under the Code of Criminal Procedure , 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 Code of Criminal Procedure , 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 the 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 Code of Criminal Procedure , for quashing of the FIR in the interest of justice.

12. Accordingly, the present petition is allowed and FIR No. 10 dated 11.1.2006 under Sections 365, 392 IPC registered with Police Station Sadar Dabwal, District Sirsa and the subsequent proceedings arising therefrom are quashed against the Petitioners.