
(2010) 10 P&H CK 0197
In the Punjab And Haryana At Chandigarh

Bhupinder Singh and Others	Vs	APPELLANT
The State of Punjab and Another		RESPONDENT

Date of Decision : 07-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Hindu Marriage Act, 1955 — Section 13
Penal Code, 1860 (IPC) — Section 120B, 376, 420

Citation : (2010) 10 P&H CK 0197

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—The symposium of the facts, which need a necessary mention, to decide the core controversy involved in the instant petition and emanating from the record, is that the marriage of complainant Rajwant Kaur (respondent No. 2) was solemnized with petitioner Bhupinder Singh son of Joginder Singh in the year 1999. They resided and cohabited as husband and wife and three children were born out of their wedlock. The petitioner-husband was stated to have started quarreling with the complainant in the month of December, 2008 without any rhyme or reasons. She reported the matter to the police but the matter was compromised at the intervention of respectable persons. Thereafter, they started living happily.

2. The wife claimed that her husband was secretly filed a petition for divorce u/s 13 of the Hindu Marriage Act and their marriage was dissolved, by virtue of exparte judgment and decree dated 9.5.2009 (Annexure A1). According to the complainant that on 10.12.2009, she came to know that her husband was going to solemnize his second marriage with one Jasvir Kaur at village Dhaudhar. She alongwith her father and members of panchayat reached there on the same day and came to know about the decree of divorce, which was stated to have been obtained by the husband by playing fraud upon her. He continued having

intercourse with her.

3. Levelling a variety of allegations, in all, according to the complainant that her husband did not fulfill his promise to withdraw the divorce petition, got exparte decree of divorce and ruined her life. On the basis of aforesaid allegations and in the wake of statement of complainant, the present case was registered against the accused, vide FIR No. 108 dated 12.12.2009 (Annexured P3), on accusation of having committed the offences punishable under sections 376, 420 and 120B IPC by the police of Police Station City Badhni Kalan, Distt. Moga.

4. What is not disputed here is that during the pendency of the criminal case, good sense prevailed and the parties have entered into compromise. A Coordinate Bench of this Court (Gurdev Singh, J.) passed the following order on 21.7.2010:

Heard.

It has been submitted by counsel for respondent No. 2 that respondent No. 2 is present and has admitted the factum of the compromise.

It has been submitted by learned State counsel that challan has already been presented before the court.

Let report of the trial court be called, if the parties have voluntarily entered into any such a compromise in respect of the offences mentioned in the FIR. Report is to be made, after recording the statements of the parties, within a month.

5. In pursuance of the aforesaid order, the trial Judge sent his report, reiterating that the parties have voluntarily entered into the compromise, in respect the offences mentioned in FIR No. 108 dated 12.12.2009, under Sections 376/420/120-B lodged in the Police Station Badhni Kalan, District Moga.

6. Meaning thereby, it stands proved on record that the parties have compromised the matter. Petitioner No. 1 and respondent No. 2 were husband and wife at the relevant time of the occurrence. They have three children. Having divorced the complainant, petitioner No. 1 has remarried and peacefully residing with his second wife Jasvir Kaur and sought protection of this Court in CRM No.M-35951 of 2009, which was disposed of by this Court, vide order dated 18.12.2009 (Annexure P4).

7. In this manner, now the petitioners have filed the present petition for quashing the FIR (Annexure P3) and all subsequent proceedings thereto on the basis of compromise, invoking the provisions of section 482 Cr.PC, inter-alia, pleading that the complainant has filed her affidavit (Annexure P6) in this respect. She has stated that due to intervention of relatives and respectables of the society, she has amicably settled all the differences with petitioner No. 1. She is fully satisfied and does not want to proceed with the FIR (Annexure P3). She has filed her affidavit with her own free will and without any pressure of any kind.

8. Such thus being the position on record, now the core 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?

9. 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 connection.

10. 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 regard was transformed in reality by Hon"ble Apex Court in cases Manoj Sharma v. State and Ors. 2008(4) RCR (Criminal) 827; B.S. Joshi v. State of Haryana 2003 (2) RCR (Crl.) 888 (SC) and Full Bench of this Court in case Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR (Criminal) 1052.

11. The crux of the law laid down in the aforesaid judgments is that the power u/s 482 Cr.PC 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.

12. In other words, the High Court has unlimited power to quash the criminal proceedings, relatable to matrimonial and property disputes, on the basis of lawful settlement. As the parties are 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.

13. In the light of the aforesaid reasons, the instant petition is hereby accepted. Consequently, FIR No. 108 dated 12.12.2009 (Annexure P3) and all other subsequent proceedings thereto are quashed and all the accused are discharged, in the obtaining circumstances of the case.