
(2012) 04 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-6979 of 2012 (O and M)

Dalip Kumar and another

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 25-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 320, 323, 34, 406, 451

Citation : (2012) 167 PLR 257

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Hardip Singh for Mr. R.S. Mamli, for the Appellant; Deepak Balyan, Addl. A.G. Punjab, for the Respondent-State, for the Respondent

Final Decision : Allowed

Judgement

Rameshwar Singh Malik, J.—The petitioners have approached this court u/s 482 of the Code of Criminal Procedure ("Cr.P.C" for short) invoking the inherent jurisdiction of this court, for quashing of the impugned FIR No. 102 dated 17.6.2007 under Sections 406, 498-A, 451, 323, 506, 34 IPC, registered at Police Station Salem Tabri, Distt. Ludhiana and also the consequential proceedings arising therefrom. This Criminal Misc. Petition has been filed by the husband (Dalip) and mother-in-law (Smt. Krishna) u/s 482 Cr.P.C., for quashing of the FIR, on the basis of compromise (Annexure P-2) arrived at between the parties.

2. The only issue that arises for consideration of this court is that, whether the parties have arrived at a genuine compromise by way of an out of court settlement and if that is so, whether the impugned criminal proceedings are liable to be quashed to secure the ends of justice.

3. Parties to the marriage, falling apart, initiated different criminal as well as civil proceedings against each other. It is to be noted here that the hate once started, knows no limits. However, in the interregnum, it seems that with the grace of

God, good sense prevailed upon and with the intervention of respectables and family friends, both the parties were able to bury the hatchet by arriving at a mutual compromise.

4. Notice of motion was issued. The respondents put in appearance and admitted the compromise arrived at between the parties. Vide order dated 12.3.2012, this court directed the parties to appear before the learned trial court for getting their statements recorded in terms of the compromise (Annexure P-2) and the learned trial court was directed to send its report. In compliance of the order dated 12.3.2012 passed by this court, report dated 19.4.2012 sent by the learned Judicial Magistrate, 1st Class, Ludhiana, has been received through the learned District and Sessions Judge, Ludhiana. The learned trial court has also reported that the parties have arrived at a genuine compromise and got recorded their separate statements voluntarily without any pressure. Thus, the compromise has been reported to be a genuine and real one without any coercion.

5. Learned counsel for the litigating parties are ad-idem that now the parties have got no grudge against each other in view of their mutual compromise. Both the parties are praying for quashing the impugned criminal proceedings. Learned counsel for the parties have also brought to the notice of the court that the compromise has been acted upon. Consequently, the parties are living together happily.

6. The learned counsel for the petitioners concluded by submitting that since the grievance raised in the FIR No. 102 dated 17.6.2007 has been got redressed between the parties because of timely and kind intervention of respectables and common friends, it will be in the interest of justice to quash the abovesaid impugned FIR, particularly when the parties have acted upon the compromise and are living together happily.

7. Having heard the learned counsel for the parties and after going through the record of the case, this court is of the considered opinion that the present one is a fit case for exercising the inherent powers u/s 482 Cr.P.C., so as to secure the ends of justice.

8. So far as the scope of the inherent powers of this court u/s 482 Cr.P.C., read with Section 320 Cr.P.C., for permitting the compounding of offence and based thereon quashing the criminal proceedings is concerned, a Larger Bench of this court in *Kulvinder Singh v. State of Punjab*,¹ (2007-3)147 P.L.R. 439 (F.B.), has observed as under:-

25. To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power u/s 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice."

26. In *Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others*, ,

Hon"ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:-

The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power u/s 482 of the Cr.P.C.

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power u/s 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers u/s 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

30. The power u/s 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power u/s 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extraordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting cogenality in society. 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.

Considering the peculiar fact situation of the present case, this court has satisfied itself that an out of court settlement arrived at between the parties is a genuine one and without any pressure. Thereafter, the parties are living together peacefully and there is left no chance of conviction. Continuation of the criminal proceedings, in such a situation, would be nothing but abuse of process of law and also the wastage of valuable, time of the court.

9. The view taken by this court also finds support from the recent judgment of the Hon''ble Supreme court, rendered in Shiji @ Pappu and another v. Radhika and another, (2012-3)167 P.L.R. 108 (S.C.). The relevant observations made by the Hon''ble Apex court in para 13 of the judgment, which can be gainfully followed in the present case, read as under:-

It is manifest that simply because an offence is not compoundable u/s 320 IPC is by itself no reason for the High Court to refuse exercise of its power u/s 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution u/s 482 Cr.P.C. on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable u/s 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court u/s 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power u/s 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power u/s 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition u/s 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

10. In view of the above discussion and keeping in view the totality of facts and circumstances of the present case, coupled with the reasons aforementioned, I unhesitatingly conclude that answer to the question posed at the outset is in the

affirmative. Further, since the compromise has been found to be genuine, leaving no chance of conviction, the instant one is a fit case for exercising the inherent powers u/s 482 of the Cr.P.C. so as to secure the ends of justice and to prevent the abuse of process of law.

11. Before parting with this judgment, it may be gainfully noted here that in case the marriage, as an institution is to survive, it needs constant oiling in the form of mutual love and affection between the parties: Fortunately, in the present case the marriage has been saved, of course, by the joint and sincere efforts made on behalf of both the parties, for which the parties also deserve all appreciation from this court as well. I say so because a little flame of anger at the spur of movement would be enough to spoil the marriage, if that anger is not contained from spreading its wings, by taking wise steps with cool and calm mind. That is what seems to have been done in the present case by both the parties, thereby securing the future not only for themselves but also for their coming generation. Having said that, let this litigation end at a happy note. Resultantly, the FIR No. 102 dated 17.6.2007 under Sections 406, 498-A, 451, 323, 506, 34 IPC, registered at Police Station Salem Tabri, Distt. Ludhiana and also the consequential proceedings arising therefrom.

The Crl. Misc. Petition stands allowed.