

(2019) 07 P&H CK 0210

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 32443 Of 2018

Dildamanpreet Bajwa

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 29-07-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 120B, 406, 420

Citation : (2019) 07 P&H CK 0210

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arvind Singh Sangwan, J

By way of the present petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 24 dated 25.02.2015, registered under Sections 406, 420 and 120-B of the Indian Penal Code at Police Station Division No. 1, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise entered into between the parties.

It is stated in the petition that two of the co-accused of the petitioner, namely Kulwinder Singh Bajwa and Lovepreet Singh, stand acquitted as the witness and complainant turned hostile, vide judgment dated 12.04.2017.

Vide order dated 01.08.2018, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR. The trial Court was also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

In pursuance to the aforesaid direction, the parties have appeared before the trial Court and the trial Court has submitted its report dated 17.10.2018, in which, it is stated that the petitioner has effected the compromise with complainant Satpal Singh and victim Manjinder Singh Multani without any fear, pressure, threat or coercion.

The Investigating Officer is present in Court and submits that during the pendency of the trial of the aforesaid two co-accused, the petitioner was declared a proclaimed offender on 02.02.2016 and he has appeared before the trial Court only in compliance with the order dated 01.08.2018, passed by this Court.

A perusal of the petition shows that the petitioner has not attached the copy of order, declaring him as a proclaimed offender, though in para 5 of the petition, it is stated that the petitioner has wrongly been declared a proclaimed offender.

As per the Full Bench judgment of this Court in Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, it is held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543, has held as under:-

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences

arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

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.

In view of the above discussion, present petition is allowed and FIR No. 24 dated 25.02.2015, registered under Sections 406, 420 and 120-B of the Indian Penal Code at Police Station Division No. 1, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom including the order declaring the petitioner a proclaimed offender, are ordered to be quashed qua the petitioner.

However, since the petitioner was declared a proclaimed offender on 02.02.2016 and the FIR along with all the subsequent proceedings are quashed today, the petitioner is directed to deposit Rs. 15,000/- as costs with District Legal Services Authority, Jalandhar within a period of two months from today, failing which, this petition shall be deemed to have been dismissed.