
(2008) 03 P&H CK 0135
In the Punjab And Haryana At Chandigarh

Gushavinder Singh	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 04-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 34, 364, 380

Citation : (2008) 2 PLR 779

Hon'ble Judges : Arvind Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Arvind Kumar, J.—The petitioner is seeking quashing of FIR No. 20 dated 17.1.1996, under Sections 364, 380, 34 IPC, registered at police station Sadar, Jalandhar, on the basis of compromise (Annexure P-2) having entered between them.

It is apposite to mention here that the impugned FIR was got registered by one Jati Ram @ Lazarus (since deceased), husband of respondent No. 2 wherein he complained that on 17.1.1996 one Simarjit Singh (since died) alongwith the present petitioner and their accomplice Balraj Singh and Parshotam Lal kidnapped his son Fransis @ Bijli. The investigating agency filed challan against Simarjit Singh, Balraj Singh and Parshottam Lal while the petitioner Gurshavinder Singh was declared proclaimed offender. Proceedings against Simarjit Singh were dropped on account of his death while the remaining accused Balraj Singh and Parshottam Lal were acquitted by the learned trial court since nothing incriminating was produced by the prosecution against them.

It is further relevant to mention here that the complainant Jati Ram as well as his son Fransis, who was allegedly kidnapped were not examined as both of them died during the pendency of the trial.

2. Now the petitioner appeared and has joined the investigation.

It has been contended that the petitioner has settled the matter with the intervention of respectables vide compromise (Annexure P-2) with the widow of complainant Jati Ram and mother of Fransis, who was alleged kidnapped by the petitioner and his accomplice, namely Angelina, since Jati Ram and Fransis are no more in this world.

3. Furthermore, Smt. Angelina has decided not to pursue the instant FIR against the petitioner. Affidavits of Smt. Angelina and her two sons namely Ronald and Vincent have also been placed on record containing the factum of compromise entered between the parties and their no objection in the quashing of the impugned FIR.

Even in the reply filed on behalf of the State, it is mentioned that no useful purpose will be served if the petitioner is forced to face trial, who is also similarly stipulated to co-accused namely Parshottam Lal and Balraj Singh, who, as stated above, have already been acquitted by the learned trial court.

4. By now it is fully settled that the High Court in exercise of inherent powers can quash the proceedings if it finds that allowing of any such proceedings to continue would be an abuse of process of the Court or that ends of justice require that the proceedings be quashed.

5. In the case of State of Karnataka Vs. L. Muniswamy and Others, , the Hon'ble Supreme Court has observed that the ends of justice are. higher than ends of mere law, though justice has got to be administered according to the laws made by the legislature yet the Court proceeding ought not to be permitted to degenerate in to a weapon of harassment or persecution.

6. In the case of Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, , the essence of compromise has been summoned up in 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.

The Larger Bench of this Court in the case of Kulvinder Singh v. State of Punjab (2007) 147 P.L.R. 439, while discussing the scope of quashing of prosecution on the basis of compromise, by this Court in exercise of powers u/s 482 Cr.P.C., even in non-compoundable offence (s) has held as under:

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.

7. In the instant case, as emerges from record, the parties have mutually settled their dispute. The complainant and the alleged victim, who were the star witnesses of the prosecution have since died, this Court is of the considered view that continuance of such a prosecution is nothing but an exercise in futility and putting the petitioner on trial, in the peculiar facts of the case, is nothing but sheer wastage of time of Court. Therefore, considering the aspect of settlement having arrived at between the parties and in view of the fact that the complainant as well as alleged victim have died and the parties have also settled their dispute, it is a fit case where interference of this Court in exercise of its inherent powers u/s 482 Cr.P.C. is made out.

Therefore, in view of the discussion above, the instant petition is allowed. Consequently, impugned FIR all other consequent proceedings thereto against the petitioner are quashed.