

(2012) 05 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-11801 of 2012 (O and M)

Harbhajan Singh alias Kaka and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 28-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 324, 326

Citation : (2012) 05 P&H CK 0100

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Vipin Mahajan, for the Appellant; A.S. Rai, DAG, Punjab, for the State and Mr. Amit Gupta, Advocate, for the respondents No. 2 and 3, for the Respondent

Judgement

Vijender Singh Malik, J.—Harbhajan Singh and five others, the petitioners have brought this petition under the provisions of section 482 Cr. P.C. for quashing of FIR No. 35 dated 13.06.2011 registered at Police Station Tibber, District Gurdaspur for an offence punishable under sections 148, 323, 324, 326 and 452 read with section 149 of Indian Penal Code alongwith all the subsequent proceedings arising out of the same, on the basis of compromise arrived at between the parties. Learned counsel for the petitioners have submitted that the petitioners and respondents No. 2 and 3 are residents of the same village and the injury attracting the provisions of section 326 IPC was caused on the little finger of left hand of Ajmer Singh, the complainant.

2. On notice of the petition, Ajmer Singh and his father, Balwinder Singh, respondents No. 2 and 3 alongwith Mr. Amit Gupta, Advocate have appeared before me. Respondents No. 2 and 3 admit that the matter has been compromised between the parties. They have been identified by Suresh Kumar, ASI, Police Station Tibber, District Gurdaspur.

3. Compromise between the parties resolves their pending disputes which

ultimately brings peace and harmony between the warring factions and restores tranquility in the society. With regard to the matrimonial offences, it has been held by this court in Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426 that even if the matrimonial offence is non compoundable, a case regarding the same could be quashed on the basis of compromise between the parties to achieve the aforesaid object. However, the question arose as to whether quashing of cases for non-compoundable offences in offences other than matrimonial disputes, could be allowed and a Larger Bench of five Hon`ble Judges of this court in Kulwinder Singh and others Vs. State of Punjab and another 2007 (3) RCR (Cri) 1052, has taken the following decision in the matter:-

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.

4. Learned counsel for the petitioners has cited before me a latest decision of Hon`ble Supreme Court in Shiji @ Pappu and others Vs. Radhika and another 2012 (1) RCR (Criminal) 9. It was a case for an offence punishable u/s 394 IPC. In this case, FIR was quashed on the basis of compromise. The case here is for an offence punishable under sections 148, 323, 324, 326 and 452 read with section 149 IPC and is not more serious than the offence in Shiji @ Pappu's case (supra).

5. Learned State counsel on the other hand, has not disputed the factum of compromise having been arrived at between the parties.

6. Therefore, the quashing of FIRs in non-compoundable offences is not limited to matrimonial disputes only and the FIR for the offence in question could, therefore, be quashed. However, before accepting the petition and quashing the proceedings, the court has to satisfy itself that the compromise is just and fair with no party taking undue advantage therein. Simultaneously, it has to be seen that the compromise is free from undue pressure. Once it is found that the compromise is just and fair and is not brought about by undue pressure of one party upon the other, the court has to then see that the quashing would secure the ends of justice or that it would prevent abuse of process of law.

7. On questioning respondents No. 2 and 3, they have stated that their claim has been satisfied and they are left with no grievance. They have filed separate replies to the petition in the shape of their affidavits to the effect that the matter has been compromised and no cause of friction is left between the parties. This compromise can certainly be said to be one arrived at to secure the ends of justice. Nothing appears to the court to be suggestive of any pressure, much less undue pressure on the complainant for this compromise. Undue benefit is also not shown to be derived by any party in the matter of compromise. Respondents

No. 2 and 3 are represented by a counsel of their choice and, therefore, expert legal advice is also available to them. Keeping in view the aforesaid facts, continuation of the prosecution for the aforesaid offence, in the said FIR where the complainant would not be ready to support the allegations contained in the FIR, would be a futile exercise. Therefore, I accept the petition and quash FIR No. 35 dated 13.06.2011 registered at Police Station Tibber, District Gurdaspur for an offence punishable under sections 148, 323, 324, 326 and 452 read with section 149 IPC alongwith all the subsequent proceedings arising out of the same.