
(2008) 05 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-10065 of 2008 (O and M)

Harvinder Singh

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 21-05-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2008) 05 P&H CK 0045

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : H.P.S. Ghuman, for the Appellant; Anter Singh Brar, DAG for respondent No. 1 and Mr. F.S. Virk, Advocate, for the Respondent

Judgement

Rajesh Bindal J.—The prayer made in this present petition filed u/s 482 of the Cr.C.P. (for short "the Code") is for quashing of FIR No. 49 dated 26.3.2008 registered under Sections 420, 406 IPC at Police Station, Patran, District Patiala and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the dispute between the parties has been compromised. An affidavit dated 5.4.2008 has been furnished by respondent No. 2/ complainant with the Investigating Officer on the basis of which, the police also is in process of presenting untraced report in the Court. Once that is so the FIR in question registered against the petitioner be quashed. Reliance has been placed upon a five Judge Bench judgment of this Court in Kulwinder Singh v. State of Punjab, 2007 (3) Law Herald (P&H) 2225.

3. Learned counsel for respondent No. 2 does not dispute the fact that the matter has been compromised between the parties. A copy of affidavit dated 5.4.2008 of respondent No. 2/ complainant as was submitted to the Investigating Officer has been handed over in Court today, which is taken on record as Mark 'A'. He submits that the complainant does not have any objection in case the FIR in question is quashed.

4. Learned counsel for the State has produced a communication dated 20.5.2008 from Senior Superintendent of Police, Patiala to Advocate General, Punjab admitting the fact that the complainant had submitted an affidavit admitting compromise arrived at between the parties and on the of 2008 -2- basis thereof, untraced report has been sent on 22.4.2008. It is further stated in the letter that the police does not have any objection in case the FIR in question is quashed. Letter is taken on record as Mark `B".

5. While dealing with issue of quashing of FIR on the basis of compromise a Bench consisting of five Hon"ble Judges of this Court in Kulwinder Singh's case (supra) while approving minority view in Dharambir v. State of Haryana, 2005 (2) Law Herald (P&H) (FB) 723, opined as under:

"27. 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.C.p. 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".

28. 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." 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.

29. No embargo, be in the shape of Section 320(9) of the Cr.C.p., or any other such curtailment, can whittle down the power u/s 482 of the Cr.C.p.

30. 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.C.p. 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.C.p. 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.

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

32. The power u/s 482 of the Cr.C.P. 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.C.P. 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 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 ever-lasting congeniality 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."

6. Compromise in modern society is the *sine qua non* of harmony and orderly behaviour. As observed by Krishna Iyer J., the finest hour of justice arrives propitiously when parties despite falling apart, bury the hatchet and weave a sense of fellowship of reunion. Inherent power of the Court u/s 482 Cr.C.P. is not limited to matrimonial cases alone. The Court has wide powers to quash the proceedings even in noncompoundable offences in order to prevent abuse of process of law and to secure ends of justice, notwithstanding bar u/s 320 Cr.C.P. Exercise of power in a given situation will depend on facts of each case. The duty of the Court is not only to decide a *lis* between the parties after a protracted litigation but it is a vital and extra-ordinary instrument to maintain and control social order. Resolution of dispute by way of compromise between two warring groups should be encouraged unless such compromise is abhorrent to lawful composition of society or would promote savagery, as held in *Kulwinder Singh's* case (*supra*).

7. Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceeding with the prosecution. Accordingly, FIR No. 49 dated 26.3.2008 registered under Sections 420, 406 IPC at Police Station, Patran, District Patiala and all subsequent proceedings arising therefrom are quashed.

The petition is disposed of accordingly.