

(2021) 02 P&H CK 0359

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 38335 Of 2020

Jagdish

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 10-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 406, 420

Immigration Act, 1983 — Section 24

Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 02 P&H CK 0359

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Vikram Bali, Parminder Singh, Naveen Singh Panwar, Sukhdeep Singh

Final Decision : Disposed Of

Judgement

Avneesh Jhingan, J

The petition is for quashing of FIR No. 443, dated 3rd July, 2020, under Sections 406, 420 and Section 24 of Immigration Act, 1983, registered at Police Station Sadar, Karnal, District Karnal alongwith all consequential proceedings.

The FIR was at the behest of Mintu alleging that Jagdish (petitioner) had taken money on the pretext of sending him to America. During investigation parties have compromised the matter.

Following order was passed by this Court on 19th November, 2020:-

"The matter is taken up for hearing through video conference due to COVID-19 situation.

Notice of motion.

Ms. Safia Gupta, AAG, Haryana and Mr. Sukhdeep Singh, Advocate appearing on advance notice accept the same on behalf of respondents No. 1 and 2 respectively.

Learned counsel for the petitioners and respondent No. 2 are ad idem that the matter has been compromised.

Learned counsel for respondent No. 2 is not opposing the quashing of FIR.

Let the parties appear before the Illaqa Magistrate/trial Court on 12.1.2021 for recording their statements with regard to the compromise/settlement.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

1. Number of persons arrayed as accused in FIR;
2. Whether accused is proclaimed offender; and
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

List on 10.2.2021."

The report dated 1st February, 2021 is received. As per the report, compromise is authentic and without any coercion or undue influence.

Learned counsel for the complainant submits that he has no objection if the present FIR is quashed.

Full Bench of this Court in Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, has held:-

"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 under Section 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 under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

The power under Section 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 under Section 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 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."

Considering the facts that the matter has been compromised, the complainant has got the money back and to meet the ends of justice and considering that no useful purpose would be served with continuation of trial, the above mentioned FIR with all subsequent proceedings arising therefrom are quashed.

The petition is disposed of.