
(2010) 12 P&H CK 0105

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-29519 of 2010

Jagpal Singh @ Jaspal Singh and Others

APPELLANT

Vs

State of UT and Others

RESPONDENT

Date of Decision : 17-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 120B, 148, 149, 323, 325

Citation : (2010) 12 P&H CK 0105

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Code of Criminal Procedure for quashing of the FIR No. 431 dated 20.09.2007 under Sections 420/120B IPC at Police Station 34, Chandigarh and further proceedings arising therefrom pending in the Court of Judicial Magistrate 1st Class, Chandigarh on the basis of compromise effected between the Petitioners and Respondents No. 4 to 7.

2. The FIR was registered against the present Petitioners by Respondent No. 4-Kuldeep Singh. Respondents No. 5 to 7 are also the affected parties. Due to the intervention of respectable persons of both the sides, the matter has been compromised. As per the compromise, the complainant does not wish to pursue the above mentioned FIR against the present Petitioners. Affidavits of Respondents No. 4 to 7 were also executed affirming the factum of compromise and the same are placed on record. It is duly stated by them that the matter has been compromised and they have no objection, if the said FIR is quashed. The present FIR arises out of the dispute with regard to cheating the complainant on the pretext of sending him abroad on immigration. Now the matter has been amicably resolved between the parties vide compromise deed Annexure P-2.

3. It is pointed out by learned Counsel for U.T. Chandigarh that Petitioners No. 1 and 3 are the proclaimed offenders. The matter has been compromised. Hon'ble

the Supreme Court in the case of Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, , held that:

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

4. While relying upon the aforesaid judgment of the Apex Court, this Court in the case of Jobanjit Singh v. State of Punjab and Ors. (Crl.M No. 10033 of 2009, decided on 29.07.2009) quashed the proceedings declaring the Petitioner as proclaimed offender by observing as under:

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, order dated 23.12.2000 passed by the Judicial Magistrate 1st Class, Ropar (Annexure P-3) declaring the Petitioner as proclaimed offender, FIR No. 38 dated 05.07.2000, registered at Police Station Chamkaur Sahib, District Ropar, under Sections 323, 325, 341, 148, 149 IPOC (Annexure P1) and all subsequent proceedings arising therefrom are quashed qua the Petitioner.

5. Similar view by was also held by this Court in the case of Gurpreet Singh v. State of Punjab and Anr. (CRM M 1238 of 2007, decided on 29.01.2007).

6. Taking into account the fact that the dispute was a matrimonial dispute also coupled with the fact that the matter had been compromised, this Court in the cases of Sarbjit Singh and Ors. v. State of Punjab and Anr. (CRM M 52033 of 2007, decided on 27.01.2009), Pushpa Rani v. State of Punjab and Anr. (CRM M 30341 of 2008, decided on 12.01.2010) and Sandeep Singh Brar and Ors. v. State of Punjab and Ors. (CRM M 28857 of 2008, decided on 12.02.2009) quashed the FIR even though the Petitioner was declared as proclaimed offender as all the disputes had been settled by way of compromise.

7. The Full Bench of this Court, in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR 1052 has held that 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 not only in matrimonial discord but others as well, such compromise deserves to be accepted. It is further held as under:

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.

8. In the case of Madan Mohan Abbot Vs. State of Punjab, , the Apex Court emphasised and advised as under:

We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

9. The matter has been compromised without any pressure. The complainant have no objection if the said FIR is quashed. In view of the settled position of law, it would be just and proper to quash the FIR for peace, harmony and thus allow the parties to move on in life.

10. Accordingly, the present petition is allowed and FIR No. 431 dated 20.09.2007 under Sections 420/120B IPC at Police Station 34, Chandiarh and further proceedings arising therefrom pending in the Court of Judicial Magistrate Ist Class, Chandigarh on the basis of compromise effected between the Petitioners and Respondents No. 4 to 7 are hereby quashed in the interest of justice.