
(2011) 03 P&H CK 0276
In the Punjab And Haryana At Chandigarh
Case No : CRM M-17361 of 2009

Joga Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 325, 326

Citation : (2011) 03 P&H CK 0276

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—The present petition has been filed u/s 482 Code of Criminal Procedure for quashing of FIR No. 38 dated 10.5.1990 under Sections 326/323/148/149/325 IPC Police Station Haryana District Hoshiarpur and subsequent proceedings arising there from on the basis of compromise entered into between the parties.

2. The brief facts relevant in the present petition are that FIR No. 38 dated 10.5.1990 under Sections 326/323/148/149/325 IPC Police Station Haryana District Hoshiarpur was got registered by one Jaswinder Singh. The Petitioners were tried and convicted in the said FIR. Thereafter, the Petitioners filed an appeal against their conviction before the appellate Court and the same is pending. During the tendency of the appeal, both the parties have entered into a compromise with the intervention of respectable of the village. Compromise deed (Annexure P-4) has already been placed on record.

3. Report dated 24.7.2009 No. 674 regarding the compromise has also been received from Surinder Singh Sahni, Addl. District and Sessions Judge, Hoshiarpur. It is submitted in the said report as under:

I have the honour to submit that there were three injured namely Jaswinder

Singh, Avtar Singh and Sadhu Singh. Avtar Singh and Sadhu Singh have appeared before me and made separate statements having effected compromise with the accused party. Injured Jaswinder Singh is stated to have gone abroad. The FIR in question was registered on the statement made by Jaswinder Singh. In the absence of Jaswinder Singh, it cannot be said that entire matter has been compromised. However, there are statements made by Avtar Singh and Sadhu Singh that they have entered into compromise. From their statements, this Court is satisfied that compromise by them is voluntary. They were identified by Mrs. P.K. Gill Advocate. Original statements made by them are enclosed herewith.

4. Learned Counsel for Respondents No. 2 and 3 has already placed on record the affidavit of Jaswinder Singh vide order dated 4.10.2010 before this Court authenticating the compromise. As per the said affidavit, Jaswinder Singh has no objection if the Petitioner is acquitted of the charges.

5. Thus, there is no doubt that the matter has been compromised.

6. The Apex Court in the case of Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and Anr. 2008 (2) RCR (Cri) 910 while quashing the FIR and all proceedings arising out of the same held that the continuation of criminal proceedings would be an abuse of the process of law. In that case also the Petitioners were convicted u/s 498-A IPC and were sentenced to imprisonment of 18 months. An appeal was filed against the conviction order and during the tendency of the appeal, the parties had settled their differences. However, they filed petition before the High Court u/s 482 Code of Criminal Procedure for quashing of the complaint as well as conviction order on account of the compromise. The High Court dismissed the same. Aggrieved, they challenged the same before the Apex Court. The Apex Court accepted the compromise and quashed the FIR and all the proceedings arising out of the same, as well as order of conviction.

7. This Court in the case of Sukhwinder Singh and Ors. v. State of Punjab and Anr. 2008 (3) RCR (Cri) 991 who relying upon the judgment of Khursheed and Anr. v. State of U.P. and Anr. 2007 (4) RCR (Cri) 495 allowed the Petitioners to compound the offence u/s 452 IPC during the tendency of the appeal.

8. The Full Bench of this Court, in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR (Cri) 1052 has held that the compromise, in a modern society, is the sine qua non of harmony and orderly behaviors. It is the soul of justice and if the power u/s 482 of the Code of Criminal Procedure 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 Code of Criminal Procedure 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 Code of Criminal Procedure in order to prevent the abuse of law and to secure the ends of justice.

9. Moreover, the cross case has also been quashed vide Annexure P-5 on the basis of compromise.

10. Taking into account the facts of the present case as well as the fact that the parties have compromised the matter with the intervention of the respectable of the village, it would be in the interest of justice to accept the compromise and to allow the parties to live amicably which shall reduce the friction in the society and promote peace and harmony.

11. In view of the above and settled proposition of law, the parties are allowed to compound the offences. Accordingly, the parties are directed to appear before the Appellate Court where the appeal is pending. Thereafter, the Appellate Court shall pass appropriate orders in the light of permission granted by this Court to the parties to compound the offence.

12. Accordingly, the present petition is allowed in the above terms.