
(2011) 01 P&H CK 0067
In the Punjab And Haryana At Chandigarh
Case No : C.R.M. No. M-36087 of 2010

Kanwardeep Singh and Another	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Arms Act, 1959 — Section 25, 27
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 307, 34

Citation : (2011) 3 RCR(Criminal) 407

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : Bipan Ghai and Vinod Ghai, for the Appellant; K.S. Pannu, DAG and R.K. Gupta, for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Code of Criminal Procedure for quashing of FIR No. 44 dated 19.03.2010 under Sections 307, 34 of Indian Penal Code and Section 25, 27, 54, 59 of Arms Act, Police Station Dhariwal, District Gurdaspur, Punjab (Annexure P-1) which was got registered by Respondent No. 2 - complainant against the present Petitioners on the basis of the compromise dated 30.10.2010 arrived at between the parties. Copy of the same has been placed on record as Annexure P-2.

2. In the present case, the aforesaid FIR was got registered by Respondents No. 2 against the Petitioners with the allegations that Petitioner No. 1 fired at the complainant but the bullet did not hit him. However, the matter was stated to have been compromised vide compromise deed dated 30.10.2010.

3. The complainant is present in Court along with his counsel. He has also filed his affidavit in Court today, stating therein, that in the said incident no injury was suffered by him or any one and, as such, he has no objection if the said FIR is quashed.

4. No doubt, in the present case, Section 307 IPC and Section 25, 27, 54, 59 of Arms Act have been attributed to the Petitioners but it is a case of no injury as the complainant himself in his affidavit stated that no one was injured in the said occurrence.

5. Reply by way of affidavit of Jaspal Singh, PPS, Deputy Superintendent of Police (Rural) Gurdaspur on behalf of Respondent No. 1 has also been filed in Court today. The same is taken on record. As per the said reply, during investigation, it was found that no offence under Sections 307, 34 IPC and Sections 25, 27, 54, 59 of the Arms Act is made out against the present Petitioners. It is also stated in the reply that cancellation report has also been prepared and the same is yet to be filed in the Court.

6. Keeping in view the peculiar facts of the case as well as the reply filed by the State, there is no impediments in the way of the High Court in accepting the 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 observed as under:

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 Code of Criminal Procedure is used to enhance such a compromise which, in turn, enhances the social amity and reduced 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 exercising its power u/s 482 of the Code of Criminal Procedure in the event of a compromise, but this is not to say power is limited to such cases. There can never be any such rigid rules to prescribe the exercise of such power.

The Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab, emphasised in para No. 6 as follows:

6. We need to emphasize 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.

8. The said compromise has been arrived at between the parties without any pressure. The complainant has no objection if the said FIR is quashed.

9. Hon''ble the Supreme Court in B.S. Joshi and Ors. v. State of Haryana and Anr. reported as 2003 (2) RCR (Cri) 888, in para 6 and 11, held as under:

6. In Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, , this Court with reference to Bhajan Lal's case observed that the guidelines laid therein as to where the court will exercise jurisdiction u/s 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoicing such powers.

11. In Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandojirao Angre and Others, , it was held that while exercising inherent power of quashing u/s 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

10. Thus, taking into account the allegations, compromise dated 30.10.2010, affidavit of the complainant as well as reply filed by the State that offence u/s 307 is not made out and the cancellation report is already prepared, it is a fit case, where there is no impediment in the way of this Court to exercise its inherent powers u/s 482 Code of Criminal Procedure for quashing of the present FIR and subsequent proceedings arising out of the same.

11. Accordingly, the present petition is allowed and FIR No. 44 dated 19.03.2010 under Sections 307, 34 of Indian Penal Code and Section 25, 27, 54, 59 of Arms Act, Police Station Dhariwal, District Gurdaspur, Punjab (Annexure P-1) and subsequent proceedings arising out the same are hereby quashed.

Allowed in the aforesaid terms.