

(2013) 11 P&H CK 0166

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-17933 of 2013

Kulwant Singh and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 29-11-2013

Acts Referred:

Citation : (2013) 11 P&H CK 0166

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Advocate : P.S. Thiara, for the Appellant; Rajat Mor, D.A.G., Haryana and Mr. G.S. Sandhu, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Daya Chaudhary, J.—The present petition has been filed on behalf of petitioners, namely, Kulwant Singh, Sumer Nambardar, Satish, Lakhbir Singh and Naveen for quashing of FIR No. 310 dated 12.07.2007 registered under Sections 420/465/467/468/471/474/419/120B IPC at Police Station Civil Lines, District Karnal on the basis of compromise arrived at between the parties. Petitioner no. 1 and respondent No. 2-complainant are real brothers and are residents of same village. However, due to some misunderstanding, the said FIR has been registered.

2. Learned counsel for the petitioners submits that subsequently, the dispute between petitioner No. 1 and complainant-respondent No. 2 was sorted out. Petitioner no. 2 is Nambardar, petitioners No. 3 and 4 are the attesting witnesses and petitioner No. 5 has purchased the land. The allegations in the FIR are that a sale deed was executed by impersonating the complainant in favour of petitioner No. 5 and petitioners No. 2 and 3 got identified petitioner No. 1 and 4. However, during pendency of the proceedings, a compromise was effected between the parties and the dispute between two brothers was sorted out. Thereafter, the present petition has been filed for quashing of FIR, in question, on the basis of compromise.

3. Vide order dated 05.10.2013, both the parties were directed to appear before the Illaqa Magistrate for recording of their statements with regard to compromise and the Illaqa Magistrate was directed to send a report in this regard along with statements of the parties.

4. In compliance of said directions, a report has been sent along with statements of the parties which are on record. It has been mentioned in the report that the compromise is without any pressure and undue influence and the statements were made as per their free will. Petitioners have stated in their statements that a compromise has been effected between them and now no grouse is there. Similarly, the complainant has also stated in his statement that due to compromise effected in the Panchayat, he does not have any grouse against the accused persons.

5. In *Kulwinder Singh and Others Vs. State of Punjab and Another*, the Larger Bench of our own High Court has held that the High Court has the wide power to quash the proceedings even in non-compoundable offences, notwithstanding the bar u/s 320 of the Criminal Procedure Code in order to prevent abuse of the process any Court or to secure the ends of justice. In *Kulwinder Singh's* case, the Larger Bench has also observed:-

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 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 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 Cr.P.C. 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.

6. The Apex Court in the case of *Madan Mohan Abbot Vs. State of Punjab*, emphasized 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 utilized 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."

7. Hon"ble the Supreme Court in the case of *B.S. Joshi and Others Vs. State of Haryana and Another*, , 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 which invoking 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 appears 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.

8. Since the dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of FIR and moreover, the dispute was of the land between petitioner No. 1 and respondent No. 2 and subsequently, the complainant has been compensated by petitioners No. 1 and 5 and because of the compromise, the complainant has no objection in quashing of FIR, in question as well as other proceedings arising therefrom and also keeping in view the interest of both the parties and also the fact that the purpose is to maintain peace and harmony and moreover in view of judgment of *Kulwinder Singh and others (supra)*, the FIR can be quashed in case the offence is non-compoundable, I am of the considered view that continuation of impugned criminal proceedings between the parties would be an exercise in futility. The complainant does not want to pursue these proceedings and it shall merely be a formality and sheer wastage of precious time of the Court as the complainant would not support the case of prosecution in view of compromise arrived at between the parties. Accordingly, this petition is allowed and impugned criminal proceedings arising out of FIR No. 310 dated 12.07.2007 registered under Sections 420/465/467/468/471/474/419/120B IPC at Police Station Civil Lines, District Karnal and all the subsequent proceedings arising therefrom qua petitioners namely Kulwant Singh, Sumer Nambardar, Satish, Lakhbir Singh and Naveen are quashed.