
(2013) 08 P&H CK 0266
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-23539 of 2013

Kulwant Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 26-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 420

Citation : (2013) 08 P&H CK 0266

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Advocate : Gulshan Sharma, for the Appellant; Jaspreet Singh, Assistant Advocate General, Punjab for Respondent No. 1-State and Mr. Raman Goklaney, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mehinder Singh Sullar, J.—The matrix of the facts and material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record is that, initially in the wake of complaint of complainant-Harmeet Singh son of Kaka Singh, respondent No. 2 (for brevity "the complainant"), a criminal case was registered against the petitioners-accused Kulwant Singh son of Sucha Singh and others, vide FIR No. 77 dated 23.06.2012 (Annexure P-1), on accusation of having committed the offences punishable under Sections 420 and 120-B IPC, by the police of Police Station Mamdot, District Ferozepur. After completion of the investigation, the police submitted the final police report (challan). The petitioners-accused were accordingly charge-sheeted for the commission of the indicated offences by the trial court and the case was listed for evidence of the prosecution.

2. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their disputes, by way of compromise/affidavit (Annexure P-2) of the complainant, attested on 05.07.2013.

3. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., inter alia, pleading that with the intervention of respectables of the village, the parties have amicably settled their disputes and the complainant has already received the agreed amount, in pursuance thereof. The settlement is stated to be in the benefit and larger interest of the parties. The complainant has no objection, if the criminal case registered against the petitioners-accused, by means of impugned FIR (Annexure P-1) is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

4. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise/affidavit (Annexure P-2), by this Court, by virtue of order dated July 24, 2013.

5. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, concluded vide its report dated 13.08.2013 that the parties have compromised the matter and made their respective statements to that effect. The settlement is genuine, valid and without any kind of coercion or pressure.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by way of compromise/affidavit (Annexure P-2). The factum of compromise is also reiterated in the report of the trial Court.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of criminal disputes by virtue of amicable settlement between the parties is no more res integra and is now well-settled.

8. An identical question (recently) came to be decided by the Hon'ble Apex Court in SLP (Crl.) No. 8989 of 2010, titled as Gian Singh Versus State of Punjab and another., decided on September 24, 2012. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) as under:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

9. Such, thus, being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned counsel are ad idem that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

11. As is evident from the record that, in the instant case, with the intervention of respectables of the village, the parties have compromised the matter without any kind of pressure or coercion. Now they have no grudge against each other. They want to live peacefully in future. The complainant does not want to further pursue the matter. He has no objection if the criminal case registered against the petitioners-accused, vide impugned FIR (Annexure P-1) is quashed. The factum and genuineness of the compromise between the parties is also reiterated by the

trial Court in its indicated report.

12. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the ratio of the law laid down and the bench-mark set out by the Hon"ble Supreme Court in Gian Singh's case(supra), "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand. Sequelly, the impugned FIR(Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No. 77 dated 23.06.2012 (Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly acquitted of the charges framed against them, on the basis of compromise/affidavit.