

(2018) 08 P&H CK 0258

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No.-47564, 47563 Of 2017

Kulwinder Singh and others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 23-08-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 427, 326, 323, 452, 506
Code of Criminal Procedure, 1973 — Section 482

Citation : (2018) 08 P&H CK 0258

Hon'ble Judges : ARVIND SINGH SANGWAN, J

Bench : Single Bench

Advocate : Vishal Sodhi, Sidakmeet Sandhu, G.S. Sirphikhi

Final Decision : Allowed

Judgement

The petitioners have prayed for quashing of FIR No.114 dated 09.11.2017 for the offences punishable under Sections 452, 326, 323, 506, 427, 34 of

the Indian Penal Code ('IPC' for short), registered at Police Station Sri Hargobindpur, Police District Batala, District Gurdaspur and all the subsequent

proceedings arising therefrom, on the basis of compromise effected between the parties.

Vide order dated 14.12.2017, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard

to genuineness of the compromise.

A report dated 15.02.2018 has been submitted by the Judicial Magistrate 1st Class, Batala, wherein it has been reported that statements of the

petitioners and respondent No.2 have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a

compromise and the Court is satisfied that the parties have amicably settled their

dispute without any fear, pressure, threat or coercion and out of their free will.

Learned counsel for the petitioners submits that no other criminal case is pending between the parties and none of the petitioner is a proclaimed offender.

Learned State counsel, on instructions from ASI Madan Mohan, has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

I have heard learned counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, it is held that the

High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High

Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is

not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543, has held as under:-

“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

under Section 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 predominatingly 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 personal 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.â??

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal

proceedings to continue.

In view of what has been discussed hereinabove, present petition is allowed and FIR No.114 dated 09.11.2017 for the offences punishable under

Sections 452, 326, 323, 506, 427, 34 IPC, registered at Police Station Sri Hargobindpur, Police District Batala, District Gurdaspur and all the

subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners, however, subject to payment of costs of Rs.3,000/- to be

deposited with the District Legal Services Authority, Gurdaspur.