

(2010) 12 P&H CK 0489

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M. 36569 of 2010 (O and M)

Kunwerjeet Singh Grewal and Another

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 17-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2010) 12 P&H CK 0489

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jaswant Singh, J.

Crl. Misc. No. 65006 & 65007 of 2010

1. Allowed as prayed for.

Crl. Misc. No. M 36569 of 2010

2. Petitioners who are husband and mother-in-law of the complainant-Respondent No. 2 Inderjit Kaur have approached this Court u/s 482 Code of Criminal Procedure for quashing of FIR No. 20 dated 29.1.2009 under Sections 406, 498-A IPC, PS Sadar Ludhiana, as well as consequential proceedings on the basis of compromise arrived at between the parties.

3. As per allegations in the FIR Petitioner No. 1 (being husband) and Petitioners No. 2 (being mother-in-law) of the Respondent No. 2 complainant used to harass, maltreat her and also used to give beatings to her on account of bringing insufficient dowry articles. Subsequently both the parties arrived at an amicable settlement by way of compromise in the shape of their statements recorded before the High Court in Crl. Misc. No. M 31108 of 2009 on 04.12.2009 respectively and hence the present petition.

4. Complainant Inderjit Kaur daughter of Dilawar Singh is present in the court. She has stated that she has compromised the matter with the Petitioners in the instant FIR and has no objection if the aforesaid FIR and all consequent proceedings arising therefrom are quashed.

5. Statement of Respondent No. 2-complainant has also been separately recorded. She has undertaken to abide by the terms and conditions of the compromise in the shape of statements(Annexures P-2 & P-3) recorded before this Court. She has been identified by HC Barjinder Singh No. 2216, PS Sadar, Ludhiana.

6. Learned State Counsel on instructions from HC Barjinder Singh submits that untrace report was filed on 25.6.2010 in the court and is even otherwise unable to raise any serious objection in view of the statement recorded in terms of the aforesaid compromise whereby the complainant is not willing to support the case of the prosecution.

7. Hon''ble Supreme Court in B.S. Joshi and Others Vs. State of Haryana and Another, has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers u/s 482 of the Code.

8. A Full Bench of this Court in Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007(3) RCR 1052 has also held that this Court, in appropriate cases, while exercising powers u/s 482 Code of Criminal Procedure , may quash an FIR disclosing the commission of noncompoundable offences. The relevant extracts read 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. Hon''ble Apex Court in another case in Nikhil Merchant Vs. Central Bureau of Investigation and Another, while relying upon its decision in B.S. Joshi's case(supra) has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

10. Similar views were expressed by Hon''ble the Apex Court in Madan Mohan Abbot Vs. State of Punjab, , the relevant extract of which is as under:

We need to emphasise 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.

11. Keeping in view the above settled legal position and taking into account the fact that the dispute between the parties is a matrimonial dispute and that both the parties have desired to live separately in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no legal impediment in the way of the Court to exercise its inherent powers u/s 482 Code of Criminal Procedure , for quashing of the FIR in the interest of justice.

12. Accordingly, the present petition is allowed and FIR No. 20 dated 29.1.2009 under Sections 406, 498-A IPC, PS Sadar Ludhiana and the subsequent proceedings arising therefrom are quashed against the Petitioners.