
(2021) 03 P&H CK 0183

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 2064 Of 2021

Manoj Verma

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 15-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 370, 384, 385, 406, 420, 506

Emigration Act, 1983 — Section 24

Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 03 P&H CK 0183

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Harsh Kinra, Deepak Bhardwaj, Gopal Sharma

Final Decision : Allowed

Judgement

Avneesh Jhingan, J

This petition is filed for quashing of FIR No. 303, dated 6th August, 2020 under Sections 406, 420, 506, 370, 384 (Section 385 added later on) of the Indian Penal Code, 1860 and Section 24 of the Emigration Act, 1983, registered at Police Station Pundri, District Kaithal and all subsequent proceedings arising therefrom.

Om Pal made a complaint that was duped by the petitioner of R10,00,000/- approximately, on the promise of sending of his son to America. The petitioner neither returned his money nor was able to send his son to America. Rather his son when sent to Mexico he was kept in camp and thereafter jailed in Georgia for one year.

The matter was compromised between the parties on 11th January, 2021, hence the present petition for quashing was filed.

On 15th January, 2021, the parties were directed to appear before the trial Court for getting their statement recorded.

A report dated 10th March, 2021 is received from the Judicial Magistrate First Class, Kaithal stating that compromise is genuine. It is further stated that accused, as on date, is not a Proclaimed Offender .

Full Bench of this Court in Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, has held:-

"The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 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 under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery."

The Supreme Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017 AIR (SC) 4843 has expounded principles governing the exercise of powers under Section 482 of Cr.P.C. The relevant portion is reproduced as under:-

"15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under

Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

(emphasis supplied)

The parties have resolved the issue, the money was returned to the complainant. The issue had dominating tenor of recovery of the amount. To meet the ends of justice and considering that no useful purpose would be served in continuing with the trial, the above mentioned FIR with all subsequent proceedings arising therefrom are quashed.

The petition is allowed.