
(2010) 09 P&H CK 0254

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-4215 of 2010

Manvinder Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 15-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 302, 304B, 324

Citation : (2010) 09 P&H CK 0254

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Judgement

Mehinder Singh Sullar, J.—The matrix of the facts, culminating in the commencement, relevant for disposal of present petition and emanating from the record, is that on 30.5.1998 complainant Ajit Singh (since deceased) and his son Nishan Singh were irrigating their fields. Accused Dalip Singh and Balkar Singh having spades (Kassis), while Manvinder Singh and Lakhwinder Singh armed with Dangs and Pritam Singh and Mohinder Singh empty handed, came to their fields.

2. Levelling a variety of allegations, in all, according to the prosecution that on 30.5.1998, the fateful day, the accused gave injuries to Nishan Singh and his father Ajit Singh (since deceased) with their respective weapons. On the basis of aforesaid allegations and in the wake of statement of complainant Ajit Singh, the present case was registered against the accused, vide FIR No. 48 dated 3.6.1998 (Annexure P1), on accusation of having committed the offence punishable under Sections 148, 324 and 325 read with Section 149 IPC by the police of Police Station Bholath, District Kapurthla in the manner indicated here-in-above.

3. At the same time, the accused party claimed that they have also suffered injuries at the hands of complainant party in the same occurrence and a separate cross complaint was filed against them.

4. As petitioner Manvinder Singh son of Mohinder Singh was residing in Italy, therefore, he could not be tried and was declared proclaimed offender, while

accused Balkar Singh, Dalip Singh, Mohinder Singh and Pritam Singh were charge sheeted.

5. Having completed all the codal formalities, all the accused in the State case as well as in the cross complaint case were convicted by the trial Court. The parties did not feel satisfied with the impugned judgments of conviction and orders of sentence and filed their respective appeals.

6. It is not a matter of dispute that during the pendency of the appeals, good sense prevailed, the parties entered into mutual settlement and agreed to compromise the matters in both the cross appeals. Consequently, the accused in the cross complaint case were acquitted on the basis of compromise, vide order dated 26.8.2006 (Annexure P4), while the accused in State case were acquitted on the basis of compromise by the Ist Appellate Court, by virtue of judgment dated 28.8.2006 (Annexure P5)

7. In this manner, now the petitioner has moved the instant petition for quashing of FIR (Annexure P1) qua him, mainly, on the ground that the parties have already compromised the matter and his other co-accused have already been acquitted in this respect. Again, it is not a matter of dispute that Ajit Singh complainant has already died and his LRs namely Simar Kaur, daughter and Surinder Singh and Nishan Singh sons, have filed their respective affidavits to the effect that both the parties have entered into compromise with the intervention of respectables of the area and they have no grudge with the present petitioner. They do not want to prosecute him in this context.

8. In order to substantiate the validity of the compromise, the parties, vide their separately recorded statements, reiterated and have stated that they have compromised the matter with the intervention of respectables of the area and prayed for quashing of the criminal proceedings. As per affidavits filed by the LRs of complainant Ajit Singh (deceased), the parties have amicably settled the matter without any pressure; with the sweet will; they are living peacefully; they have no grudge against the petitioner, the LRs of Ajit Singh do not want to pursue the FIR and they have no objection in case the FIR is quashed.

9. Such thus being the position on record, now the sole question that arises for determination in this petition is as to whether it would be expedient in the interest of justice to quash the criminal prosecution or not?

10. Having regard to the rival contentions of the learned Counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to me, justice would be sub-served if the parties are allowed to compromise the matter in this relevant connection.

11. The theory of penology/strict punishment underwent a drastic change with the passage of time and the evolution of law of settlement appear on the scene, which is primarily based on the theory of reformation of the accused. The statutory penal provision pales into insignificance in the wake of insertion of new

Chapter XXI-A by Amendment Act No. 2 of 2006 and amendment in expansion of scope of compounding the offences u/s 320 Cr.P.C. At the same time, the law of settlement of criminal disputes by virtue of compromise is not res-integra and is well settled. The clear and explicit intention of the Legislature was transformed in reality by Hon''ble Apex Court in cases Manoj Sharma v. State and Ors. 2008 (4) RCR (Criminal) 827; B.S. Joshi v. State of Haryana 2003 (2) RCR (Crl.) 888 (SC) and Full Bench of this Court in case Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR (Criminal) 1052.

12. The crux of the law laid down in the aforesaid judgments is that the power u/s 482 Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. 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 everlasting congeniality in society and 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 adhorrent to lawful composition of the society or would promote savagery if the statement is fair being free from under pressure.

13. However, Hon''ble Supreme Court in Manoj Sharma's case (supra), has restricted the scope of quashing the criminal proceedings on the basis of compromise in serious offences and ruled (para 33) as under:

There can be no doubt that a case u/s 302 IPC or other serious offences like those under Sections 395, 397 or 304B cannot be compounded and hence proceedings in those provisions cannot be quashed by the High Court in exercise of its power u/s 482 Cr.P.C. or in writ jurisdiction on the basis of compromise. However, in some other cases, (like those akin to a civil nature) the proceedings can be quashed by the High Court if the parties have come to an amicable settlement even though the provisions are not compoundable. Where a line is to be drawn will have to be decided in some later decisions of this Court, preferably by a larger bench (so as to make it more authoritative). Some guidelines will have to be evolved in this connection and the matter cannot be left at the sole unguided discretion of Judges, otherwise there may be conflicting decisions and judicial anarchy. A judicial discretion has to be exercised on some objective guiding principles and criteria, and not on the whims and fancies of individual Judges. Discretion, after all, cannot be the Chancellor's foot.

14. Meaning thereby, the High Court has unlimited power to quash the criminal proceedings, relatable to injury cases, on the basis of lawful settlement within the frame work and restriction depicted by Hon''ble Apex Court.

15. As is evident from the record that in the instant case, the parties are lawfully agreed to settle the dispute. The restriction of heinous offences emanating from the judgment of Hon''ble Supreme Court in Manoj Sharma's case (supra) is not at all attracted to the present case. Therefore, to my mind, there is no

impediment in translating the wishes of the parties 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 as guaranteed by and as contemplated in the Constitution of India.

16. In the light of the aforesaid reasons, the instant petition is hereby accepted. Consequently, FIR No. 48 dated 3.6.1998 (Annexure P1) and all other subsequent proceedings thereto are quashed and the petitioner is discharged, in the obtaining circumstances of the case.