
(2010) 12 P&H CK 0185
In the Punjab And Haryana At Chandigarh
Case No : Criminal M. No. 33869-M of 2010

Mohd. Hanif and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 308, 323, 341

Citation : (2010) 12 P&H CK 0185

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jaswant Singh, J.—Prayer u/s 482 Cr.P.C is for quashing of cross case registered vide DDR No. 33 dated 10.10.2010 under Sections 368/341/323/427/506/148/149 IPC in case FIR No. 152 dated 10.10.2010 under Sections 308/341/323/506/148/149 IPC, P.S City Malerkotla, District Sangrur on the basis of compromise dated 30.10.2010 (P.3).

2. As per allegations in the cross case/aforesaid DDR, Petitioners armed with baseball bat, Daang, hockey, Bugdha and gandas in their respective hands entered the house of the complainant and gave severe beatings to her as well as her husband-Mohd. Nazir besides threatening for stopping them to capture the pigeons of the complainant.

3. Vide order dated 18.11.2010, this Court directed the learned trial Court to send report with regard to compromise in pursuance of which, a report/letter dated 9.12.2010 has been received from the SDJM, Malerkotla, which is taken on record as Mark-A. It is stated in the report that the complainant has arrived at a compromise with the accused-Petitioners and she has no objection if the aforesaid FIR is quashed on the basis of compromise.

4. Learned state counsel, on instructions from HC Balwinder Singh, states that he

is unable to raise any serious objection to the quashing of the FIR on the basis of the compromise since the complainant is not willing to support the prosecution case.

5. 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.

6. A Full Bench of this Court in Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007(3) RCR 1052 has held that this Court, in appropriate cases, while exercising powers u/s 482 Cr.P.C., may quash an FIR disclosing the commission of non compoundable offences. The relevant extracts read as under:

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 u/s 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

7. Hon"ble Apex Court in another case in Nikhil Merchant Vs. Central Bureau of Investigation and Another,

8. Nikhil Merchant v. Central Bureau of Investigation and Anr. 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.

9. Similar views were expressed by Hon"ble the Apex Court in

10. 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 both the parties have desired to live 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 impediment in the way of the Court to exercise its inherent powers u/s 482 Cr.P.C., for quashing of the FIR in the interest of justice.

12. Accordingly, the present petition is allowed and cross case registered vide DDR No. 33 dated 10.10.2010 under Sections 368/341/323/427/506/148/149 IPC in case FIR No. 152 dated 10.10.2010 under Sections 308/341/323/506/148/149 IPC, P.S City Malerkotla, District Sangrur and all subsequent proceedings arising there from, are quashed.