
(2013) 05 P&H CK 0178

In the Punjab And Haryana At Chandigarh

Case No : C.R.M-M No. 14728 of 2013 (O and M)

Mohinder Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 27-05-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 323, 324, 326, 34

Citation : (2013) 05 P&H CK 0178

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Sanjay Saini and Mr. Rajeshwar Singh, for the Appellant; Luvinder Sofat, AAG, Punjab assisted by H.C. Rachpal Singh, for the Respondent

Judgement

Jitendra Chauhan, J.—This petition u/s 482 of the Code of Criminal Procedure has been filed for quashing of FIR No. 41 dated 5.8.2009 (Annexure P-1), under Sections 323/ 324/ 326/ 34 of the Indian Penal Code (for short "the IPC"), registered at Police Station Purana Shalla, District Gurdaspur, and all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2) arrived at between the parties. Heard.

2. Vide order dated 6.5.2013, the parties were directed to appear before the learned trial Court, for getting their statements recorded. In compliance thereof, report of learned Judicial Magistrate 1st Class, dated 17.5.2013, has been received to the effect that the parties have arrived at an out of Court settlement and the said settlement is genuine and without any pressure.

3. Hon"ble the Supreme Court, in " Gian Singh Vs. State of Punjab and Another, has observed in para 57 as under:-

57. 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 u/s 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 favour 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.

4. In view of the above, this Court feels that no purpose would be served in keeping the proceedings alive. Accordingly, the present petition is allowed; FIR No. 41 dated 5.8.2009 (Annexure P-1), under Sections 323/ 324/ 326/ 34 IPC, registered at Police Station Purana Shalla, District Gurdaspur, and all consequential proceedings arising therefrom; are hereby quashed qua the present petitioner(s).