
(2010) 11 P&H CK 0295

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 29104 of 2010

Mukhtiar Singh and Another

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 17-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 307, 34

Citation : (2010) 11 P&H CK 0295

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jaswant Singh, J.—Prayer is u/s 482 Code of Criminal Procedure for quashing of FIR No. 74 dated 6.9.2010 under Sections 307 and 34 of Indian Penal Code registered with Police Station Ghanike Bangar, District Batala and the further proceedings arising therefrom on the basis of compromise dated 11.09.2010 (P2) arrived at between the accused-Petitioners and the Respondent No. 2-complainant.

2. The dispute between two parties is over picking up passengers from the bus stops by the transport buses belonging to the two parties. As per allegations in the FIR lodged by complainant-Respondent No. 2 Lakhwinder Singh, Petitioner No. 1-Mukhtiar Singh has allegedly raised a lalkarawhereas Petitioner No. 2 Piara Singh @ Fauji is alleged to have fired shot from his .12 DBBL gun hitting the complainant on the calf of his left leg.

3. While issuing notice of motion parties were directed to appear before the learned Illaqa Magistrate for getting their statements recorded in terms of the compromise and submit its report regarding the genuineness of the compromise.

4. Report (Mark-A) in the shape of letter dated 08.11.2010 of learned Judicial Magistrate Ist Class, Batala along with photocopies of statements of complainant

as well as accused has been received wherein it is stated that the parties appeared before that court and suffered statements recorded separately in terms of the compromise and stated that the matter between the parties has been compromised and complainant has no objection if the aforesaid FIR and all consequential proceedings are quashed against the Petitioners.

5. From the report submitted it is evident that the dispute between the Petitioners-accused and the complainant has been amicably resolved by entering into compromise wherein the complainant has stated that he has no objection if the present FIR against the Petitioners-accused is quashed.

6. Learned State Counsel on instructions from HC Skatter Singh submits that opinion of the doctor is not available on the file and, therefore, cannot be said that whether the offence u/s 307 IPC would be attracted or not and is unable to raise any serious objection in view of the statements recorded in terms of the aforesaid compromise whereby the complainant is not willing to support the case of the prosecution.

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.

7. 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 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 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.

8. 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.

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.

9. Keeping in view the above settled legal position and taking into account the fact that prima facie offence u/s 307 of IPC is not attracted and 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 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.

Accordingly, the present petition is allowed and FIR No. 74 dated 6.9.2010 under Sections 307 and 34 of Indian Penal Code registered with Police Station Ghanike Bangar, District Batala as well as the subsequent proceedings arising therefrom are quashed against the petitioners.