
(2011) 11 P&H CK 0225
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-21833 of 2010 (O and M)

Mushtak and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 22-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 406, 498A, 506

Citation : (2011) 11 P&H CK 0225

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Judgement

Augustine George Masih, J.—Prayer in this petition is for quashing of FIR No.75 dated 03.03.2010 registered under Sections 406, 498-A, 506 IPC at Police Station Sohna, District Gurgaon on the basis of compromise dated 01.07.2010 (Annexure P-2).

2. Counsel for the petitioners states that challan has been presented in Court and the parties have entered into a compromise. It is a matrimonial dispute. After the compromise, the complainant Basgari-respondent No.2 is residing with petitioner No.1. As of now, there is no dispute between the parties and the complainant has no objection to the quashing of the FIR which has been registered at her behest.

3. The case was taken up for hearing on 25.07.2011 and the following order was passed:

On request of learned counsel for respondent No.2, adjourned to 22.11.2011.

Meanwhile, parties are directed to be present before the Trial Court on 26.08.2011 or any other date convenient to the court for recording their statements with regard to compromise. The trial court is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not a result of any pressure or coercion in any manner. It shall

then send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any case is pending against either of the parties or not before the next date of hearing.

4. In compliance with this order, report has been submitted by Judicial Magistrate Ist Class, Gurgaon. The report reads as follows:

I have the honour to submit that in compliance of the above said order dated 25.07.2011 petitioners Mushtak son of Deenu, Deenu son of Rujdar, Farima wife of Deenu and Akhtari daughter of Deenu appeared before the undersigned being the trial court. Basgari wife of Mustak, complainant in FIR No.75 dated 03.03.2010 u/s 406, 498-A/506 of Indian Penal Code, P.S. Sohna, has made the statement that she has got registered the abovesaid FIR against the Mushtak who is her husband and other family members of Mustak. But after the registration of above said FIR she has entered into compromise and she has no objection if the said FIR is quashed by the Hon'ble High Court, vide her statement dated 10.09.2011. The said Mustak son of Deenu has also made a statement that the compromise has been effected and his wife is living with him.

From the statements of above said both the parties I am fully satisfied that the statements are not the result of any pressure or coercion and have been made willfully after the compromise.

5. In view of the above, it appears that a compromise has been entered into between the parties. Counsel for the State on instructions from SI Hawa Singh, Police Station Sohna states that indeed petitioner No.1 and respondent No.2-complainant are residing together and as of now there is no dispute between the parties.

6. The matter having been amicably resolved which was primarily a matrimonial dispute, the continuation of the present proceedings would be harassment to the petitioners and if it is brought to an end, that would infact be in the interest of the parties.

7. A Larger Bench of this Court in the case of Kulwinder Singh & Ors. vs. State of Punjab & Anr. 2007 (3) RCR Cri 1052, while discussing the scope of quashing of prosecution on the basis of compromise, in exercise of powers u/s 482 Cr.P.C., even in non-compoundable offence(s), has held as under:

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power u/s 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers u/s 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any

such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

29. 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 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 Cr.P.C. in order to prevent the abuse of law and to secure the ends of justice.

8. In view of the above judgment of this Court and also report of the Judicial Magistrate Ist Class, Gurgaon, the present petition is allowed. FIR No.75 dated 03.03.2010 registered under Sections 406, 498-A, 506 IPC at Police Station Sohna, District Gurgaon and all other consequential proceedings arising therefrom are hereby quashed qua the petitioners.