
(2021) 02 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 36174 Of 2019 (O&M)

Nabikaran Singh And Another

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 03-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 307, 506
Arms Act, 1959 — Section 25

Citation : (2021) 02 P&H CK 0030

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Arvind Singh Sangwan, J

CRM-2194-2021

Prayer in this application is for preponing the date of the main case which is fixed for 19.03.2021.

For the reasons stated in the application, the same is allowed. Let the main case be preponed and taken up today itself.

CRM-M-36174-2019

The lawyers are abstaining from work today.

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR No. 50 dated 03.05.2019, under

Sections 307, 506, 34 of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Jhander, District Amritsar (Rural) (Annexure P-1)

and all the subsequent proceedings arising therefrom, on the basis of the compromise (Annexure P-3) entered into between the parties.

Vide order dated 09.12.2019, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the

parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the

compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR. The trial

Court was also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

In pursuance to the aforesaid direction, the Principal Magistrate, Juvenile Justice Board, Amritsar and the Judicial Magistrate First Class, Ajnala have

submitted their respective reports, dated 10.01.2020 and 31.01.2020, respectively. As per report of the Principal Magistrate, Juvenile Justice Board,

Amritsar, the statement of petitioner Nabikaran Singh, who is a juvenile, and complainant Kulwant Singh and injured persons Amarjit Singh, Harsh

Dogra and Harsimrandeep Singh was recorded, according to which, the matter stands compromised between the parties without any coercion or

undue influence from any corner. It is also recorded that neither of the petitioners has ever been declared a proclaimed offender and no other

case/FIR has ever been registered against both the parties except the present FIR. It is further reported that as per statement of the Investigating

Officer, there is neither any other accused except the petitioners nor any other complainant/victims except respondent Nos. 2 to 5, who have

compromised the matter with the accused/petitioners. The report of the JMFC, Ajnala is also on the same line.

As per medical report and report of the trial Court, there is no specific opinion of the doctor that injuries sustained by the victims were declared

dangerous to life, therefore, offence under Section 307 IPC is not made out.

As per the Full Bench judgment of this Court in Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052, it is held that the

High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High

Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is

not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of Gian Singh Vs. State of Punjab and another,

2012 (4) RCR (Criminal) 543, has held as under:-

â??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

under Section 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 victimâ??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 flavour 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.â??

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal

proceedings to continue.

In view of the above discussion, present petition is allowed and FIR No. 50 dated 03.05.2019, under Sections 307, 506, 34 of the IPC and Section 25

of the Arms Act, 1959, registered at Police Station Jhander, District Amritsar (Rural) (Annexure P-1) and all the subsequent proceedings arising

therefrom are ordered to be quashed qua the petitioners herein, however, subject to payment of costs of ` 5,000/- to be deposited with the District

Legal Services Authority, Amritsar.