
(2012) 08 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-16063 of 2012 (O and M)

Naresh and Others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 307, 308, 323, 34, 341

Citation : (2012) 08 P&H CK 0040

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Simran Chahal, for the Appellant; Vikas Malik, AAG, Haryana, for the State. Mr. R.K. Saini, Advocate, for respondents no. 2 and 3., for the Respondent

Judgement

Vijender Singh Malik, J.—Naresh, Digamber alias Pappu, Suresh and Pardeep, the petitioners have filed this petition under the provisions of section 482 Cr. P.C. for quashing of FIR No. 279 dated 29.9.2011 (Annexure P1) registered at Police Station Sadar Dadri, District Bhiwani, for an offence punishable under sections 307, 323, 342, 506 read with section 34 of Indian Penal Code alongwith all the subsequent proceedings arising out of the same, on the basis of compromise arrived at between the parties. Besides State counsel, respondents no. 2 and 3 represented by their counsel, Mr. R.K.Saini, Advocate are appearing before the court. Learned counsel for the petitioners has drawn my attention to the compromise, Annexure P4 and has asserted that the parties have compromised the matter. Learned counsel for respondents no. 2 and 3 has admitted this fact. Respondent no. 2 has also filed her reply to the petition by way of her affidavit affirming the fact that the matter has been compromised without any pressure or coercion.

2. Compromise brings peace and harmony between the parties to a dispute and restores tranquility in the society. After decision of this court in Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426 holding that a case regarding a

non-compoundable matrimonial offence could be quashed on the basis of compromise between the parties to achieve the aforesaid object, question arose regarding other non-compoundable offences. A Larger Bench of five Hon`ble Judges of this court in Kulwinder Singh and others Vs. State of Punjab and another 2007 (3) RCR 1052, has taken the following view in the said matter:-

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.

3. Learned counsel for the petitioners has cited before me a decision of Hon`ble Supreme Court in Shiji @ Pappu and others Vs. Radhika and another 2012 (1) RCR (Criminal) 9. It was a case for a serious offence punishable u/s 394 IPC. In this case, the FIR was quashed on the basis of compromise. The case here is for an offence punishable under sections 323, 341, 506 and 308 read with section 34 and is not more serious than that.

4. Therefore, the quashing of FIRs in non-compoundable offences is not limited to matrimonial disputes and the FIR for the offence in question could also be quashed. However, before accepting the petition and quashing the proceedings, the court has to satisfy itself that the compromise is just and fair in which no party is taking undue benefit. Simultaneously, it has to be seen that the compromise is free from undue pressure. Once the court is satisfied on these points, then it has to see that the quashing would secure the ends of justice or that it would prevent abuse of process of law. Respondents No. 2 and 3 are represented by a counsel of their choice and, therefore, expert legal advice is available to them which itself dispels any fear of the court of the compromise being brought about by pressure upon respondents No. 2 and 3. Keeping in view the aforesaid facts, continuation of the prosecution for the aforesaid offence, in the said FIR where the complainant would not be ready to support the allegations contained in the FIR, would be a futile exercise. Therefore, I accept the petition and quash FIR No. 279 dated 29.9.2011 (Annexure P1) registered at Police Station Sadar Dadri, District Bhiwani, for an offence punishable under sections 307, 323, 342, 506 read with section 34 IPC alongwith all the subsequent proceedings arising out of the same.