
(2011) 03 P&H CK 0660
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M. 5231 of 2011

Om Parkash and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 22-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320(9), 482
Emigration Act, 1983 — Section 10
Penal Code, 1860 (IPC) — Section 148, 149, 323, 325, 341

Citation : (2011) 03 P&H CK 0660

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Code of Criminal Procedure for quashing of FIR No. 107 dated 06.08.2007 under Sections 420, 465, 468, 471 IPC and Section 10 of the Emigration Act, 1983, P S City, District Hoshiarpur, which was registered at the instance of Respondent No. 2 - complainant against the present Petitioners on the basis of the compromise dated 06.12.2010 arrived at between the parties. Copy of the same is placed on record as Annexure P-2.

2. It is stated by learned Counsel for Respondent No. 2 that complainant Rohit Kumar is present in Court today. He also filed the affidavit of the complainant. The same is taken on record. As per said the affidavit, the matter has been compromised and the complainant has no objection if the said FIR is quashed.

3. In the present case, some misunderstanding between the parties, led to filing of the present FIR. Now, the matter has been resolved as per compromise deed dated 06.12.2010.

4. Learned Counsel for the Petitioners states that accused No. 4 and 5 namely, Dheeraj Kumar and Pankaj Sharma, respectively, are residing abroad since 2002. It is also stated by the learned Counsel for the Petitioners the matter has been

compromised for all including accused No. 4 and 5.

5. It is pointed out by the learned State Counsel that accused No. 4 and 5, namely, Dheeraj Kumar and Pankaj Sharma, have been declared proclaimed offenders by the Illaqa Magistrate.

6. The matter has been compromised. Hon"ble the Supreme Court in the case of Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, , held that:

29. No embargo, be in the shape of Section 320(9) of the Code of Criminal Procedure or any other such curtailment, can whittle down the power u/s 482 of the Code of Criminal Procedure.

7. While relying upon the aforesaid judgment of the Apex Court, this Court in the case of Jobanjit Singh v. State of Punjab and Ors. (Crl. M. No. 10033 of 2009, decided on 29.07.2009) quashed the proceedings declaring the Petitioner as proclaimed offender by observing as under:

Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceeding with the prosecution. Accordingly, order dated 23.12.2000 passed by the Judicial Magistrate Ist Class, Ropar (Annexure P-3) declaring the Petitioner as proclaimed offender, FIR No. 38 dated 05.07.2000, registered at Police Station Chamkaur Sahib, District Ropar, under Sections 323, 325, 341, 148, 149 IPOC (Annexure P1) and all subsequent proceedings arising therefrom are quashed qua the Petitioner.

Similar view by was also held by this Court in the case of Gurpreet Singh v. State of Punjab and Anr. CRM M 1238 of 2007, decided on 29.01.2007.

8. The Full Bench of this Court in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007(3) RCR 1052 has observed as under:

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 Code of Criminal Procedure is used to enhance such a compromise which, in turn, enhances the social amity and reduced 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 exercising its power u/s 482 of the Code of Criminal Procedure in the event of a compromise, but this is not to say power is limited to such cases. There can never be any such rigid rules to prescribe the exercise of such power.

9. The Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab, emphasized in para No. 6 as follows:

6. We need to emphasize 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.

10. The present dispute is purely personal in nature and the compromise has been arrived at between the parties without any pressure. The complainant has no objection if the said FIR is quashed. Moreover, the parties at dispute are close relatives.

11. Taking into account the allegations, compromise deed dated 06.12.2010 as well as affidavit dated 22.03.2011 of the complainant, there is no impediment in the way of this Court to quash the present FIR and subsequent proceedings arising out of the same, in view of the above settled proposition of law.

12. Accordingly, the present petition is allowed and FIR No. 107 dated 06.08.2007 under Sections 420, 465, 468, 471 IPC and Section 10 of the Emigration Act, 1983, P S City, District Hoshiarpur and further proceedings arising out of the same are hereby quashed qua all the accused persons.

13. Allowed in the aforesaid terms.