
(2011) 03 P&H CK 0434

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-33444 of 2010

Rajbir and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 438, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 325, 452

Citation : (2011) 03 P&H CK 0434

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Daya Chaudhary, J.—This petition has been filed u/s 482 Cr.P.C for quashing of criminal complaint No. 339 dated 14.5.2005/ 26.11.2008 registered under Sections 323, 325, 452, 506, 148 and 149 IPC and all subsequent proceedings arising therefrom on the basis of compromise annexed as Annexure P-3 with the petition.

2. Notice of motion was issued on 16.11.2010 and parties were directed to appear before the trial Court on 29.11.2010 and trial Court was directed to record a finding whether the parties have arrived at a volunteer compromise or not? In compliance of that order, the parties have appeared before trial Court and their statements have been recorded and a report in this regard has already been sent by District & Sessions Judge, Karnal wherein it has been stated that the matter has been compromised between the parties and the statements of the parties were recorded without any pressure or coercion and as per their own free will. It is a case of version and cross-version.

3. Since the matter has been compromised between the parties, I am of the considered view that continuation of impugned criminal proceedings between the parties would be an exercise in futility. The complainant himself does not want to pursue these proceedings and it shall be merely a formality and sheer wastage of

precious time of the Court as complainant would not support the case of prosecution in view of compromise between the parties. It would be in the interest of the parties as well as in the large interest of the society, peace and harmony and in order to save both the families from avoidable litigation that the compromise arrived at between them is accepted by this Court.

4. It has been observed by Hon''ble the Apex Court in *Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others*, that "the finest Hour of Justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion." The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. Relying on the views adopted by the Hon''ble Supreme Court, the Five Judges Bench of this Court also observed in *Kulwinder Singh v. State of Punjab* 2007 (3) R.C.R.1052 that compounding of offence which are not compoundable u/s 320(9) Cr.P.C., offence non-compoundable but parties entering into compromise, High Court has the power u/s 482 Code of Criminal Procedure to allow the compounding of non-compoundable offences and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of Court or to otherwise secure the ends of justice.

5. While dealing with issue of quashing of FIR on the basis of compromise a Bench consisting of Five Hon''ble Judges of this Court in *Kulwinder Singh's* case (supra) while approving minority view in *Dharambir v. State of Haryana* 2005 (3) RCR (Cri.) 426 ; 2005 (2) Apex Cri 424: 2005 (2) Law Herald 723 (P&H) (FB), opined as under:

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power u/s 482, of the Code of Criminal Procedure The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e, "to prevent abuse of the process of any Court" or " to secure the ends of justice".

6. No embargo, be in the shape of Section 320(9) Code of Criminal Procedure or any other such curtailment, can whittle down the power u/s 438 Code of Criminal Procedure

7. The compromise, in a modern society, is the sine qua non of harmony and orderly behavior. It is the soul of justice and if the power u/s 482 Code of Criminal Procedure 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 Code of Criminal

Procedure 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.

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

9. The power u/s 482 Code of Criminal Procedure is to be exercise Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined parameters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power u/s 482 Code of Criminal Procedure has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

10. Compromise in modern society is the sine qua non of harmony and orderly behavior. As observed by Krishna Iyer J., the finest hour of justice arrives propitiously when parties despite falling apart, bury the hatchet and weave a sense of fellowship of reunion. Inherent power of the Court u/s 482 Code of Criminal Procedure is not limited to matrimonial cases alone. The Court has wide powers to quash the proceedings even in non-compoundable offences in order to prevent abuse of process of law and to secure ends of justice, notwithstanding bar u/s 320 Code of Criminal Procedure Exercise of power in a given situation will depend on facts of each case. The duty of the Court is not only to decide a list between the parties after a protracted litigation but it is a vital and extra-ordinary instrument to maintain and control social order. Resolution of dispute by way of compromise between two warring groups should be encouraged unless such compromise is abhorrent to lawful composition of society or would promote savagery, as held in Kulwinder Singh's case (supra).

11. For the reasons recorded above and having regard to the principles laid sown by the Five -Judges Bench of this Court in case of Kulwinder Singh's case (supra), this petition is allowed and impugned criminal proceedings arising out of criminal complaint No. 339 dated 14.5.2005/ 26.11.2008 registered under

Sections 323, 325, 452, 506, 148 and 149 IPC as well as all subsequent proceedings arising therefrom are quashed.