

(2013) 09 P&H CK 0379

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-11792 of 2013

Rajinder Ghotra

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 13-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320(9), 482
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 470

Citation : (2013) 09 P&H CK 0379

Hon'ble Judges : Inderjit Singh, J

Bench : Single Bench

Advocate : Jagjit Singh, for the Appellant; Harsimrat Rai, D.A.G., Punjab for the State and Mr. A.P. Singh, Advocate for the complainant-Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Inderjit Singh, J.—This petition has been filed u/s 482 Cr.P.C. for quashing of FIR No. 6 dated 16.1.2013 registered for the offences under Sections 420, 467, 468, 470, 471 and 120-B IPC at Police Station Bholath, District Kapurthala and all the subsequent and consequential proceedings arising therefrom, on the basis of compromise (Annexure-P2). On 29.8.2013, learned Chief Judicial Magistrate was directed to send a report with regard to the genuineness or otherwise of the compromise (Annexure-P2) after recording the statements of all the concerned parties.

2. In compliance with the above, the learned Additional Chief Judicial Magistrate, Kapurthala has sent her report vide letter dated 6.9.2013, wherein statements of complainant-Pardeep Kaur and petitioner-Rajinder Ghotra have been recorded. The complainant admitted the factum of compromise with the petitioner. She has also admitted that said compromise was effected without any threat, pressure or coercion.

3. Learned Deputy Advocate General, Punjab, on instructions from the

Investigating Officer, and learned counsel for the complainant-respondent No. 2, admit the factum of compromise and has no objection if the impugned FIR and the consequential proceedings qua the petitioner arising therefrom are quashed.

4. I have heard learned counsel for the parties.

5. The FIR is only for the offences under Sections 420, 467, 468, 470, 471 and 120-B IPC and on the basis of compromise effected between the parties, the dispute has amicably been sorted out. The statement of the complainant-respondent No. 2 has already been recorded in that regard by the learned Additional Chief Judicial Magistrate, Kapurthala. Since the parties have amicably settled their dispute, the chances of ultimate conviction are bleak.

6. After giving my thoughtful consideration to the matter, it may be noticed that in *Madan Mohan Abbot Vs. State of Punjab*, it was observed by the Supreme Court as follows:

We need to emphasise 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.

7. A larger Bench of this Court in *Kulwinder Singh and Others Vs. State of Punjab and Another*, has observed as follows:

27. 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. No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power u/s 482 of the Cr.P.C.

28. 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 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.

Keeping in view the factum of compromise and the law laid down by the Hon''ble Supreme Court in Madan Mohan Abbot v. State of Punjab (supra) and by a Full Bench of this Court in Kulwinder Singh and others v. State of Punjab and another (supra), this petition is allowed and FIR No. 6 dated 16.1.2013 registered for the offences under Sections 420, 467, 468, 470, 471 and 120-B IPC at Police Station Bholath, District Kapurthala and all the subsequent and consequential proceedings qua Rajinder Ghotra-petitioner arising therefrom are hereby quashed.