
(2012) 11 P&H CK 0151

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-16939 of 2012

Rikki @ Rajwinder Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 30-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 324

Citation : (2012) 11 P&H CK 0151

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : P.K.S. Phoolka, for the Appellant; Amit Chaudhary, DAG, Punjab for the Respondent-State and Mr. Davinder Kumar, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—Rikki @ Rajwinder Singh and five others, the petitioners have brought this petition under the provisions of section 482 Cr. P.C., for quashing of FIR No. 442 dated 24.08.2010, registered at Police Station Kotwali Bathinda, District Bathinda for an offence punishable under sections 148, 323 and 324 read with section 149 IPC alongwith all the subsequent proceedings arising out of the same, on the basis of compromise dated 29.11.2011 (Annexure P-2). Notice of motion was issued in the matter. Apart from learned State counsel, respondent No. -2 complainant also appeared through counsel. The parties were directed to appear before learned trial court on 29.09.2012 for getting their statements recorded in support of the compromise. Learned Chief Judicial Magistrate, Bathinda, has sent his report in this regard through learned District & Sessions Judge, Bathinda to the effect that he had recorded the statements of the complainant Sunil Kumar and the accused and had found that the statement made by the complainant was voluntarily, without any inducement, threat or promise and that the compromise is also voluntarily without any inducement or pressure. Alongwith the report he has sent two copies of a joint statement of the petitioners and has not annexed a copy of the

statement of the complainant Sunil Kumar. Probably it is on account of mistake that two copies of the joint statement of the petitioners alone has been annexed with the report. The complainant Sunil Kumar has come present in the court and has put on record his affidavit in support of the compromise. This affidavit taken with the report of learned Chief Judicial Magistrate, Bathinda, is sufficient to prove that Sunil Kumar, complainant had appeared before the Magistrate and made a statement in support of the compromise.

2. The contested decisions made by the courts leave scars on the persons of either party to the case. A decision on the basis of compromise does not leave any such scar. Compromise not only brings peace and harmony between the parties to a dispute but also restores tranquility in the society. Taking restoration of peace and harmonious relations between the parties and order in the society as the prime concerns of law, it has been held by this court in Dharambir Vs. State of Haryana, that a non compoundable matrimonial offence could be quashed on the basis of compromise between the parties. However, the said decision left a gap as it did not cover the cases other than the cases for matrimonial offences. A Larger Bench of five Hon"ble Judges of this court in Kulwinder Singh and Others Vs. State of Punjab and Another, took the following view with regard to the other non-compoundable offences:-

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. In view of the aforesaid decision of this court, the FIRs/complaint in non-compoundable offences could be quashed on the basis of compromise. With a view to ascertain that the compromise between the parties is just and fair in which undue benefit is not taken by the parties, I questioned the complainant and I am satisfied that the compromise is just and fair and is not brought about by undue pressure of one party upon the other. The compromise, therefore, seems to be the one which would secure the ends of justice and would prevent abuse of process of law. In this view of the matter, continuation of the prosecution for the aforesaid offences, where respondent No. 2 would not be supporting the allegations against the petitioners at the trial, would be a futile exercise. Therefore, I accept the petition and FIR No. 442 dated 24.08.2010, registered at Police Station Kotwali Bathinda, District Bathinda for an offence punishable under sections 148, 323 and 324 read with section 149 IPC along with all the subsequent proceedings arising out of the same is quashed qua the petitioners.