

(2021) 09 SHI CK 0051

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 452 Of 2021

Rohit Chauhan

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 21-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 245, 320, 482

Citation : (2021) 09 SHI CK 0051

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Rajneesh K.Lal, Nand Lal Thakur, Kunal Thakur, Karan Singh Kanwar

Final Decision : Allowed

Judgement

Anoop Chitkara, J

This petition coming on for presence of parties this day, the Court passed the following:

FIR No.

Dated

Police Station

Sections

25

06.03.202 0

Jubbal, District Shimla, H.P

419, 420, 465, 467, 468, 471 and 201 of IPC

1. The petitioner, who stands arraigned as accused in the FIR mentioned above, has come up before this Court under Section 482, Code of Criminal Procedure,

1973, to quash the proceedings given the compromise between him and respondent No.2.

2. Ld. Counsel for the parties submitted that the parties have resolved the criminal dispute between them and seek quashing of the FIR mention above and closure of all consequential proceedings.

3. The facts of the case are that respondent No.2 informed the police that a sum of Rs.25,504.72/- has been withdrawn from the bank by forging his signatures on the cheque. The complainant also informed that the cheque series issued to him is different. Based on this information, the police registered the FIR mentioned above. The investigation reveals that the investigator came to know that the money was transferred by Rohit Chauhan, to his bank AU Small Finance Bank Shimla and his signatures have been forged. The investigation further reveals that before respondent No.2 could procure his cheque book, the petitioner had taken away the cheques from it. The accused had forged the cheque books to get the money. Further the handwriting expert also got the involvement of the petitioner in this case. The investigation reveals that the accused was short of money to pay fee of his sister and, as such, indulged in the crime. After that, the complainant had entered into compromise with the accused vide compromise deed Annexure P-4.

ANALYSIS:

4. The following aspects would be relevant to conclude this petition: -

a) The incident relates to matrimonial discord.

b) On 20.09.2021 this Court had recorded the statements of parties wherein they testified about compromise and prayed for quashing of FIR.

c) The parties have amicably settled the matter between them in terms of the compromise deed (Annexure P-4). The complainant does not dispute this compromise deed.

d) In the given facts, the occurrence was limited and confined to relatives and does not affect public peace or tranquility.

e) The rejection of compromise may also lead to ill will, and the purpose of criminal jurisprudence is reformatory in nature and to work for bringing peace in family and society.

f) The pendency of trial affects career and happiness.

g) Even if this case is put to trial, the parties are likely to maintain the stand they have taken in this compromise, which is expected to result in the accused's acquittal.

h) Accused is the first offender.

i) The accused is facing prosecution for the last more than one year.

STAGE OF QUASHING FIR:

5. In *Ashok Chaturvedi v Shitul H. Chanchani*, 1998(7) SCC 698, Hon'ble Supreme Court holds that the determination of the question as regards the propriety of the order of the Magistrate taking cognizance and issuing process need not necessarily wait till the stage of framing the charge. The Court holds, "...This argument, however, does not appeal to us inasmuch as merely because an accused has a right to plead at the time of framing of charges that there is no sufficient material for such framing of charges as provided in Section 245 of the Criminal Procedure Code, he is debarred from approaching the court even at an earliest (sic earlier) point of time when the Magistrate takes cognizance of the offence and summons the accused to appear to contend that the very issuance of the order of taking cognizance is invalid on the ground that no offence can be said to have been made out on the allegations made in the complaint petition. It has been held in a number of cases that power under Section 482 has to be exercised sparingly and in the interest of justice. But allowing the criminal proceeding to continue even where the allegations in the complaint petition do not make out any offence would be tantamount to an abuse of the process of court, and therefore, there cannot be any dispute that in such case power under section 482 of the Code can be exercised.

6. In *Girish Sarwate v. State of A.P.*, 2005(1) R.C.R.(Criminal) 758, the Full Bench of Andhra Pradesh High Court observed that the High Court need not wait for completion of investigation and taking cognizance by the Magistrate.

CONCLUSION:

7. Although, the compromise deed mentions some other reasons, but the fact of the matter is that the accused had withdrawn the money to finance the education of his sister. Furthermore, the parties are residents of the same area and the accused is a young boy, yet to settle in his life.

8. In the present case, the offences are not compoundable under Section 320 CrPC. However, this Court has inherent powers under Section 482 of the Code of Criminal Procedure to interfere in this kind of matter. Given the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of these proceedings will not suffice any fruitful purpose whatsoever.

9. The parties are likely to live together for a lifetime, and intervention would create a cordial environment for peaceful relations between them. The inherent Jurisdiction of the High Court under section 482 CrPC can always be exercised, depending upon the facts and circumstances.

10. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, 2018 (4) Crimes 324, Hon'ble Supreme Court holds "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against

the order of the High Court rejecting their petition for quashing of the FIR/ Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stand vitiated."

11. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at p 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

12. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure is invoked to quash the proceedings mentioned above. The FIR mentioned above is quashed, and all the consequential proceedings are also quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.

13. In the facts and circumstances peculiar to this case, the petition is allowed in the aforementioned terms.