
(2020) 02 P&H CK 0127
In the Punjab And Haryana At Chandigarh
Case No : Criminal Main No. 35296 Of 2018

Sanjay And Ors

APPELLANT

Vs

State Of Haryana And Anr

RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Indian Penal Code, 1860 — Section 186, 333, 353
Code Of Criminal Procedure 1973 — Section 320, 397, 482
Railways Act, 1989 — Section 146
Constitution Of India, 1950 — Article 227

Citation : (2020) 02 P&H CK 0127

Hon'ble Judges : Raj Mohan Singh, J

Bench : Single Bench

Advocate : Yowan Sharma, Surender Singh, Arjun Attri

Final Decision : Disposed Of

Judgement

Raj Mohan Singh, J

[1]. Petitioners have preferred this petition for quashing of FIR No.23 dated 07.12.2016 registered under Sections 186, 333, 353 IPC and 146 of

Railways Act at Kalka Railway Police Station District Panchkula (Annexure P-1) and all the subsequent proceedings arising in pursuance thereof on

the basis of compromise.

[2]. Vide order dated 18.03.2019, following order was passed by the Co-ordinate Bench of this Court:-

â??Mr. Arjun Atri, Advocate, puts in appearance on behalf of respondent No.2 by filing power of attorney, which is taken on record.

This petition has been filed for quashing of FIR No.23 dated 07.12.2016 on the basis of compromise.

The parties are directed to appear before the trial Court/Illaq Magistrate on 08.04.2019 for getting their statements recorded. After recording the statements of the parties, the learned trial Court/Illaq Magistrate shall send a report to this Court regarding the genuineness of the compromise between the parties well before the next date of hearing.

Adjourned to 08.07.2019.â??

[3]. In compliance of the aforesaid order, both the parties appeared before the District and Sessions Judge, Panchkula. The Court after recording statements of the parties has endorsed the factum of compromise. The concluding part of the report reads as under:-

â??This Court also personally heard the parties on the point of having compromised the matter to which they affirmed in positive.

In view of the statements of the parties recorded separately, compromise arrived at between the parties seems to be genuine, having entered between the parties voluntarily, with their free will, without any kind of threat, coercion, undue pressure or inducement from any quarter/persons.

It is further submitted that as per record, no person has been declared proclaimed offender in the present FIR and no PO proceedings is pending against any of the accused in the present case. The prosecution has cited ten witnesses and out of the same, two witnesses have been examined and now, the case was fixed for prosecution evidence, when certified copy of the order dated 18.03.2019 was received by this Court on 26.03.2019.

Submitted please,

Sd/-

(Subhas Mehla)

District and Sessions Judge,

Panchkula, 08.04.2019â??

[4]. On the basis of report submitted by the District and Sessions Judge, Panchkula, this Court is of the opinion that a valid compromise has been entered into between the parties.

[5]. The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long. The Hon'ble Apex Court after due

consideration of judgments in *Madhu Limaye vs. State of Maharashtra*, AIR 1978 Supreme Court 4; *Bhajan Lal vs. State of Haryana and others*,

AIR 1992 Supreme Court 604 and *State of Karnataka vs. L. Muniswamy and others*, AIR 1977 Supreme Court 1489, has summed up the controversy

in *State through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others*, 2003(2) RCR (Crl.) 860 (SC). The legal position summed up

in the said judgment is in the following manner:-

Thus, the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals

throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature.

The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The

powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order.

However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power,

when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial

superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bound of their authority

and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to

warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It

is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise. Section 482 of the Criminal

Procedure Code starts with the words "Nothing in this Code". Thus the inherent jurisdiction of the High Court under Section 482 of the Criminal

Procedure Code can be exercised even when there is a bar under Section 397 or some other provisions of the Criminal Procedure Code. However, as

is set out in *Satya Narayan Sharma's case* (supra) this power cannot be exercised if there is a statutory bar in some other enactment. If the order

assailed is purely of an interlocutory character, which could be corrected in exercise of revisional powers or appellate powers the High Court must

refuse to exercise its inherent power. The inherent power is to be used only in cases where there is an abuse of the process of the Court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out herein above fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other enactment.â??

[6]. Full Bench of this Court in Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Crl.) 1052 considered the scope of powers

under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. These powers are not limited to matrimonial dispute alone, rather these powers are unlimited. However these powers are to be

exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court under

Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised Ex-Debita, justitia to prevent abuse of process of Court.

[7]. In exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature.

Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile

and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or personal in nature and the parties have redressed the same by entering into compromise.

[8]. In Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 54,3 the Hon'ble Supreme Court considered necessary imports of all previous

precedents and observed in the following manner:-

â??57. The position that emerges from the above discussion can be summarised

thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite

settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to

an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal

proceeding.â??

[8]. In the facts and circumstances of the case, there are remote chances of conviction. It would be just and expedient to exercise discretionary

power by this Court in terms of Section 482 Cr.P.C. and to put an end to the controversy for all times to come. This would be in the interest of justice

and would achieve ends of justice for the parties. The compromise would definitely enable the parties to live in peace and the offences are not heinous

offences or serious offences of mental depravity, nor it involves offence covered under the Prevention of Corruption Act. Chances of conviction are

remote and bleak, therefore, continuation of proceedings would not be in the interest of both the parties and would result in unnecessary vagaries of

criminal trial.

[9]. For the reasons recorded hereinabove, I deem it appropriate to quash the FIR No.23 dated 07.12.2016 registered under Sections 186, 333, 353

IPC and 146 of Railways Act at Kalka Railway Police Station District Panchkula (Annexure P-1) along with subsequent proceedings arisen thereof

(if any), are hereby quashed.

[10]. Petition stands disposed of.