
(2011) 02 P&H CK 0363
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M 10378 of 2010

Sanjiv and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 320, 482
Penal Code, 1860 (IPC) — Section 307, 34, 406, 498A

Citation : (2011) 2 RCR(Criminal) 557

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Code of Criminal Procedure for quashing of FIR No. 706 dated 15.07.2009 u/s 307, 34 of Indian Penal Code, P S City Panipat, which was got registered by Respondent No. 4 - complainant against the present Petitioners on the basis of the compromise dated 30.01.2010 arrived at between the parties. Copy of the same has been placed on record as An-nexure P-2.

2. It is contended by the learned Counsel for the Petitioners that though both the husband and wife were leading a happy peaceful matrimonial life. But, however, slowly some misunderstandings started to arise between the parties and as a result whereof, the relation between the parties got strained with time. It is further contended that it was only in consequence of this matrimonial dispute between Petitioner No. 1 and Respondent No. 4, the said FIR was got registered on the complaint of Respondent No. 4.

3. This Court would not have normally entertained the quashing for an offence punishable u/s 307 IPC on the basis of compromise. However, keeping in view the facts and circumstances of the present case, this Court is moved to exercise its inherent power u/s 482 Code of Criminal Procedure to accept the compromise.

4. The present FIR is a result of matrimonial disputes between Petitioner No. 1-Sanjiv and his wife Anju-Respondent No, 4 and other Petitioners have also been arrayed as accused being mother-in-law (Petitioner No. 2), brother-in-law (Petitioner No. 3) and also sister-in-law (Petitioner No. 4). However, both husband and wife have now mutually resolved all their disputes and misunderstandings before a Panchayat comprising of the relatives and other respectable persons of the village, especially keeping in view the benefit of the minor daughter of the parties, namely, Anshika. In terms of the compromise, Respondent No,4 (wife)has also returned back to her matrimonial house along with her daughter and they are now residing peaceful and leading happy matrimonial life. They have also mutually decided to get the said FIR quashed. From this marriage, Petitioner No. 1 and Respondent No. 4 also have a daughter," namely, Anshika, aged about 5 years.

5. It is also brought to the notice of the Court that Respondent-No. 4 is again on the family way, Accordingly, on 12.2010, the following order was passed:

Learned Counsel for the parties states that the parties are residing happily together and it is not possible for the complainant to be present in the Court to make a statement as she is in family way and is also advised complete bed rest for ten days.

Accordingly, the parties shall appear before the concerned Illaqa Magistrate on 15.12.2040, who shall record their statements and to sub-mit his report before this Court with respect to the genuineness of the compromise.

6. In pursuance to the said order, the Chief Judicial Magistrate, Panipat has submitted its report dated 15.12,2010, stating therein, that the parties have compromised the dispute voluntarily, without any fear or pressure in order to maintain the harmonious matrimonial relations between them.

7. It is; therefore, evident that the compromise is genuine.

8. The Full Bench of this Court, in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR (Cri) 1052 has held that the compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power u/s 482 of the 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 not only in matrimonial discord but others as well, such compromise deserves to be accepted. It is further held as under:

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 compoundable offences notwithstanding the bar u/s 320 of the Code of Criminal Procedure in order to present the abuse of law and to secure the ends of justice.

9. In the case of Madan Mohan Abbot Vs. State of Punjab, , the Ajtex Court emphasised and advised as under:

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.

10. Hon"ble the Supreme Court in the case of B.S. Joshi v. State of Haryana reported as 2003 (2) R.C.R. (Cri) 888 while relying on the judgment titled as Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, , that this Court with reference to Bhajan Lal" case observed that the guidelines laid therein as to where the court will exercise jurisdiction u/s 482 of the Code could not be inflexible or laying rigid formula to be followed by the court. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary of exercise utmost care and caution while invoking such powers.

11. In Madhavrao Jiwajirao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors. (1988) 1998 1 SCC 692 , it was held that while exercising inherent power of quashing u/s 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

12. This Court in the case of Smt. Sobha Mehra and Anr. v. State of Haryana and another reported as 2004 (1) RCR (Cri) 136 in some-What similar circumstances after taking into consideration the law, quashed the FIR u/s 307 IPC by holding in parts arid 8 as under:

6. Mr. R.S. Cheema, learned senior counsel has argued that although the offences u/s 307 IPC are not compoundable u/s 320 Code of Criminal Procedure but in cases where such like offences are attached with the matrimonial disputes, the courts could always follow " the ratio of the judgment of the Supreme Court in B.S. Joshi v. State of Haryana 2003 (2) RCR 888 . According to the learned Counsel, the basic rationale of the judgment in B.S. Joshi"s case (supra) is to rehabilitate the parties to matrimonial disputes for a smooth future life. According to the learned Counsel, the marriage in this case was only few months

old and the parties can look for other partners and can live in peace and harmony, which would further advance the social justice. In support of his submissions, he has placed reliance on two judgments of this Court in the cases of Ram Dayal and Ors. v. State of Punjab, Crl Misc. No. 40294-M of 2003, decided on 3.11.2003 and Sunil Aggarwal and Ors. v. State of Punjab and others, Crl Misc. No. 47194- M of 2003, decided on 14.10.2003. According to the learned Counsel in both the cases beside accusation constituting offences under Sections 406 and 498-A IPC, other offences like Section 313 IPC were also involved. Despite that this Court has quashed those FIRS although Section 320 Code of Criminal Procedure does not permit compounding of such offences.

7. xxx

8. After hearing learned Counsel for the parties and perusing the allegations made in the first information report, I am of the considered view that there is no possibility of rehabilitating this marriage by uniting Petitioner No. 2 with the complainant- Respondent No. 2. the marriage appears to have broken irretrievably. The parties have amicably settled all their disputes and Stridhan etc. appears to have been given by Petitioner No. 2 to complainant-Respondent No. 2. In addition, a demand draft of Rs. 5 lacs has been handed over to the complainant-Respondent No. 2 in Court. It is, thus, evident that allegations u/s 307 IPC were intimately connected with the matrimonial dispute, the police is also preparing a cancellation report. Therefore, quashing of first information report would be conducive for the rehabilitation of Petitioner No. 2 independently and the Complainant- Respondent No. 2 can also start a new life. Petitioner No. 2 as well as complainant are young and both of them are at the threshold of their career. They can always find a better and suitable life partner, If the proceedings in the first information report continue, their harassment and agony would increase manifold. The policy of law as well as the spirit of judgment of the Supreme Court in B.S. Joshi's case (supra) is to facilitate the rehabilitation of the young couples because it advances the social justice. It also strengthens the institution of marriage and family. All of them can live their own life according to their own wishes. It is often said that matrimonial life is an emotional bond which can hardly be sorted out by dry logic. Once the logic enters the matrimonial home, it is entry of a bull in the china shop, resulting into arguments and fight which breaks away everything. Therefore, in order to advance the social justice and to avoid any unnecessary harassment and agony to the parties, the first information report and the subsequent proceedings are liable to be quashed.

13. The facts of the present case are even better. Here, it would be in the interest of justice to accept the compromise. The parties have decided to resolve their matrimonial dispute and live together. The parties are now residing happily together. Quashing of the FIR will bring the two families together and will also help them to sink their differences. It would also be good for the future of the children. Forgive and forget" is the watchword of a happy married life. Thus, it would be in the interest of the parties and society at large as the parties have

decided to live peacefully together. The same will result for the betterment of the children and the child who is yet to be born.

14. In similar circumstances, this Court, vide CRM M 7839 of 2010, decided on 21.12.2010 titled as Vicky v. State of Punjab and Anr., had already ordered the quashing of the FIR for offence punishable u/s 307 IPC.

15. Accordingly, the present petition is allowed and FIR No. 706 dated 15.07.2009 u/s 307, 34 of Indian Penal Code, P.S. City Panipat and all subsequent proceedings-arising therefrom are hereby quashed in the interest of justice.