

(2012) 12 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-34901 of 2012 (O and M)

Satnam Singh @ Kala and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 12-12-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 323, 324, 325, 326, 34

Citation : (2012) 12 P&H CK 0009

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Advocate : Prateek Pandit, for the Appellant; Amarjit Kaur Khurana, A.A.G., Punjab for Respondent No. 1 and Mr. Amit Kohar, Advocate for Respondent Nos. 2 and 3, for the Respondent

Judgement

Mehinder Singh Sullar, J.

Tersely, the facts & material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record, are that, initially, in the wake of complaint of complainant Surinder Pal @ Baggar son of Tarsem Lal respondent No. 2 (for brevity "the complainant"), a criminal case was registered against petitioners-accused Satnam Singh @ Kala and others, by virtue of FIR No. 77 dated 1.11.2011 (Annexure P-1), on accusation of having committed the offences punishable under Sections 323, 324, 379 and 427 read with section 34 IPC (the offence u/s 326 IPC was later on added), by the police of Police Station Sadar Kapurthala. After the completion of investigation, the police submitted the final police report (challan) and consequently, the trial Court framed the charges against the petitioners-accused to face the trial of offences punishable under sections 325, 326, 324, 323 and 427 read with section 34 IPC, vide impugned charge sheet dated 23.12.2011 (Annexure P4) and the case was slated for evidence of the prosecution.

2. During the pendency of the criminal case, good sense prevailed and the

parties have amicably settled their disputes, by means of affidavit (Annexure P-2) of complainant Surinderpal @ Baggar, affidavit (Annexure P3) of Balwinder Singh (respondent No. 3) and affidavits (Annexures P5 to P7) of the petitioners.

3. Having compromised the matter, now the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1), charge sheet (Annexure P4) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., inter-alia, pleading that with the intervention of respectables of the village, the parties have amicably settled their disputes, by way of their affidavits (Annexures P2, P3, P5 to P7). They belong to the same village. They have agreed to bury the hatchet and want to live peacefully in future. They have reiterated the factum of compromise, by virtue of affidavits in the manner depicted here-in-above. The case was registered on account of some misunderstanding between them. Respondent Nos. 2 and 3 do not want to pursue the criminal case against the petitioners. They have no objection if the criminal case registered against them, vide impugned FIR (Annexure P-1) is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned FIR (Annexure P-1), charge sheet (Annexure P4) and all other consequent proceedings arising thereto in the manner described here-in-above.

4. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the affidavits (Annexures P-2, P3 and P5 to P7) between them, by this court, by way of order dated 6.11.2012.

5. In compliance thereof, the trial Court having recorded the statements of all the concerned parties concluded that the parties have voluntarily compromised the matter without any kind of pressure or coercion and the compromise is genuine & valid, vide its report, bearing No. 3622 dated 10.12.2012.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by means of affidavits (Annexures P2, P3 & P5 to P7) and the indicated report of the trial Court.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of criminal disputes by virtue of amicable settlement between the parties is no more res integra and is now well-settled.

8. An identical question came to be decided by the Hon"ble Apex Court in case Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Cri.) 543. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) as under:-

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 u/s 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 personnel 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.

9. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel for the parties, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, learned counsel for the parties are ad idem that, in view of the settlement of disputes between the parties, the instant petition deserves to be accepted in this context.

11. As is evident from the record that, with the intervention of respectables of

the village, the parties have amicably settled their disputes, by way of their affidavits (Annexures P2, P3, P5 to P7). They belong to the same village. They have agreed to bury the hatchet and want to live peacefully in future. They have reiterated the factum of compromise, by virtue of affidavits in the manner depicted here-in-above. The case was registered on account of some misunderstanding between them. Respondent Nos. 2 and 3 do not want to pursue the criminal case against the petitioners. They have no objection if the criminal case registered against them, vide impugned FIR (Annexure P-1) is quashed. The factum and genuineness of the compromise between the parties is also reiterated by the trial Court in its indicated report. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the ratio of the law laid down and the benchmark set out by the Hon''ble Supreme Court in Gian Singh's case(supra), "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand. Sequelly, the impugned FIR (Annexure P-1), charge sheet (Annexure P4) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case. In the light of the aforesaid reasons, the present petition is accepted. Consequently, the impugned FIR No. 77 dated 1.11.2011 (Annexure P-1), charge sheet (Annexure P4) and all other consequent proceedings arising thereto, are hereby quashed. The petitioners-accused are accordingly acquitted of the charges framed against them.