
(2010) 04 P&H CK 0096
In the Punjab And Haryana At Chandigarh

Sawinder Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Hindu Marriage Act, 1955 — Section 9
Penal Code, 1860 (IPC) — Section 120B, 342, 363, 366, 376

Citation : (2010) 04 P&H CK 0096

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Cr.P.C. for quashing of the FIR No. 38 dated 19.05.2007 under Sections 366, 363, 120-B and 376 IPC at Police Station Goindwal Sahib, District Tarn Taran and all subsequent proceedings arising therefrom on the basis of compromise entered into between the parties.

2. Petitioners No. 1 and 2 are the parents of petitioner No. 3. Petitioner No. 4 also belongs to the same village as of the complainant and petitioner No. 5 belongs to Muktsar.

3. The FIR was registered against the present petitioners by respondent No. 2- Shankar Singh son of Kundan Singh i.e. the father of respondent No. 3. Initially, the FIR was registered under Sections 363, 366 and 120-B IPC. Subsequently, after the girl was recovered and she made a statement, Section 376 IPC was also added.

4. As per the averments made in the petition, Satnam Singh-petitioner No. 3 had taken the daughter of the complainant to Raipur, Chhatisgarh and got married to him. Thereafter, her father took her away. Accordingly, petitioner No. 3 filed petition u/s 9 of the Hindu Marriage Act for restitution of conjugal rights. Presently, respondent No. 3 is married to one Gurpreet Singh as per the wishes

of her parents. She has one male child aged one year.

5. Even as per the allegations, the petitioners were stated to have lured the girl away with the intention to marry her with petitioner No. 3-Satnam Singh. In fact, Criminal Misc. No. 38817-M of 2007 was also filed by Satnam Singh-petitioner No. 3 along with the daughter of the complainant-Sukhjot Kaur seeking protection of their life and liberty from the hands of the present respondent No. 2 and other family members on the ground that they had got married against the wishes of the parents of the complainant. The said Crl. Misc. No. 38817-M of 2007 was, however, dismissed as respondent No. 3, herein, at that stage had changed her stand. Much water has flown since then. Respondent No. 3 has since got married. She has one male child out of this wedlock. Therefore, the continuation of the present FIR is a source of embarrassment and hurdle in the way of her happy marriage. The girl-Sukhjot Kaur daughter of Shankar Singh, respondent No. 3 appeared before this Court along with her counsel and made a statement that she is the affected party. She has since been married and is happily residing with her husband, namely, Gurpreet Singh. She has one child out of the wedlock. She does not wish to pursue the prosecution against the present petitioners. Even the father of Sukhjot Kaur, who is the complainant has come forward with the plea that he should be allowed to withdraw his allegations.

6. Whatever be the reason for registering the FIR, the fact remains that Sukhjot Kaur is happily married and settled in life. The quashing of the proceedings in the facts of the present case will rather secure the ends of justice especially as it is apparent from the averments made in the petition that petitioner No. 3 is also ready and willing to withdraw the petition u/s 9 of the Hindu Marriage Act for restitution of conjugal rights, pending for adjudication before the Courts at Tarn Taran. The compromise has been duly effected between the parties. Copy is the same is placed on record as P-2. The said compromise has been entered into with the intervention of the respectable of the Village. Respondents No. 2 and 3 have also got recorded their statements before this Court that they have no objection if the FIR is quashed.

7. The Full Bench of this Court, in the case of Kulwinder Singh and Ors. v. State of Punjab and Anr. 2007 (3) RCR (Criminal) 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 Cr.P.C. 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 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.

8. In the case of Madan Mohan Abbot v. State of Punjab 2008 (4) S.C. Cases 582, the Apex 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.

9. There is no doubt that the powers u/s 482 Cr.P.C., quashing the FIR on the basis of compromise involving such serious offence as in the present case, should be exercised with restraint. At the same time, the compromise in an FIR involving such offences should not be thrown out or ignored without examining the facts. In fact, it should immediately invite the attention of the Court. Otherwise, the same may result in acute hardship or misuse of the process of law and may result in injustice, causing irreparable loss to the victim or the aggrieved party.

10. Quashing herein is at the instance of victim herself. She wants to forget her past. Moreover, if her past comes to the fore, her marriage may break down. She may lose her respect and honour in the eyes of her in-laws and husband. For continuing the trial, she will have to make various visits to the Court. It is an offence which is degrading for the victim but bringing her to the Court will compromise her dignity and honour even in the eyes of her children. Her father is standing by her side supporting her and equally concerned that she must be allowed to move on with her life.

11. Learned Single Bench of this Court, while accepting the compromise under same offence in the case of Surinder Kamboj and Ors. v. State of Punjab and Anr. reported in 2008 (1) RCR (Criminal) 21, held as under:

9. Normally courts may be reluctant to cut short prosecution in such like cases and quash FIR on the basis of compromise, but this case appears to be different and strange in nature. The prosecutrix apparently has blown hot and cold at different stages of the case. She first approached Human Rights Commission but then withdrew her complaint when it was found not substantiated on enquiry. She then approached this Court for proper enquiry into the FIR but again made a somersault by moving application for withdrawing her petition at subsequent stage. She seems to be somewhat consistent now and does not wish to prosecute this FIR registered at her instance. This matter was enquired into under the directions of Human Rights Commission. This independent probe has revealed that the allegations are not substantiated. It appears that the prosecutrix has been playing into the hands of some persons and has been used

as pawn in some political game. This perhaps is the only explanation for her changing stances at different stages of the pendency of this case. The fact remains that now the prosecutrix is no more interested in prosecuting this FIR against the petitioners. The proceedings against the petitioners would thus appear to be an abuse of process of Court.

10. xxx xxx xxx xxx

11. There is nothing to suggest that compromise in this case is abhorrent to lawful composition of the society or would promote savagery. Considering the facts as noticed in detail, it will be futile to allow this prosecution to continue and if allowed to continue, it may lead to abuse of the process of Court.

12. This Court, in the case of Talwinder Singh @ Laddu v. State of Punjab reported in 2008 (3) R.C.R. (Criminal) 970, was pleased to quash the FIR under similar offence and nature i.e. u/s 376 IPC and held as under:

6. Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceeding with the prosecution. Accordingly, FIR No. 33 dated 15.02.2008 registered under Sections 363, 342, 366, 376 and 120-B IPC at Police Station, Islamabad, Amritsar and all subsequent proceedings arising therefrom are quashed.

13. Taking into account the facts of the present case, the compromise and the statement made by the complainant as well as of the daughter of the complainant who is the aggrieved party and taking into account that the pendency of the present FIR is coming in the way of her happy matrimonial life, it would be in the interest of justice that compromise is accepted and FIR No. 38 dated 19.05.2007 under Sections 366, 363, 120-B and 376 IPC registered at Police Station Goindwal Sahib, District Tarn Taran and all subsequent proceedings arising out of the same are quashed.

14. Accordingly, the present petition is allowed and FIR No. 38 dated 19.05.2007 under Sections 366, 363, 120-B and 376 IPC at Police Station Goindwal Sahib, District Tarn Taran and all subsequent proceedings arising therefrom are hereby quashed in the interest of justice.