

(2014) 08 P&H CK 0292

In the Punjab And Haryana At Chandigarh

Case No : Criminal Misc. Nos. M-9787 and 39544 of 2013

Sharanjit Singh Garewal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Arms Act, 1959 — Section 25, 27

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482

Penal Code, 1860 (IPC) — Section 120B, 307, 323, 324, 34

Citation : (2014) 08 P&H CK 0292

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Advocate : Harminderjeet Singh and Sunil Kumar Sharma, Advocate for the Appellant; Harminderjeet Singh, Sunil Kumar Sharma, Advocates and T.N. Sarup, Addl. AG, Advocate for the Respondent

Final Decision : Allowed

Judgement

Daya Chaudhary, J.—By this judgment, two petitions bearing Criminal Misc. No. M-9787 of 2013 and Criminal Misc. No. M-39544 of 2013 shall be disposed of as it is a case of version and cross-version.

2. Criminal Misc. No. M-9787 of 2013 has been filed by the petitioners, namely, Sharanjit Singh Garewal and Gurjit Singh for quashing of First Information Report (for short "FIR") No. 34 dated 14.06.2014, under Sections 307, 506 and 120B of Indian Penal Code (for short "IPC") and u/s 25, 27, 54 and 59 of the Arms Act registered at Police Station P.A.U. Ludhiana, on the basis of compromise effected between the parties.

3. Similarly, Criminal Misc. No. M-39544 of 2013 has been filed by the petitioners, namely, Karandeep Singh Sekhon, Gauravdeep Singh Bhangoo, Ravinder Singh and Gaganpreet Singh for quashing of DDR No. 11 dated 10.11.2014 under Sections 451, 323, 324, 427 read with Section 34 IPC in FIR No. 34 dated 14.06.2014, under Sections 307, 506 and 120B of IPC and under

Sections 25, 27, 54 and 59 of the Arms Act registered at Police Station P.A.U., Ludhiana on the basis of compromise effected between the parties.

4. Notice of motion in both the cases was issued and thereafter, both the parties were directed to appear before the Illaqa Magistrate for recording of their statements with regard to compromise and the Illaqa Magistrate was also directed to send a report in this regard along with statements of the parties.

5. In response to the said directions issued by this Court, a report in this regard along with the statements of the parties have been received, which are on record. It has been mentioned in the report that the parties appeared before the trial Court and their statements were recorded. It has also been mentioned that the compromise effected between the parties is genuine, with free consent and is without any pressure from either side. Both the parties have stated in their respective statements that they have no objection in quashing of the FIR as well as cross-version. Parties have specifically stated in their respective statements that they have amicably settled their dispute and do not have any grudge against each other. The compromise has also been reduced into writing, which is also on record.

6. Learned counsel appearing for the parties submit that the dispute between the parties has been settled by way of compromise and both the parties have no objection in quashing of the FIR as well as cross version registered against them. Learned counsel for the parties also submit that the parties are not habitual offenders as no other criminal case is pending against them.

7. Learned State counsel on instructions from ASI Gian Singh submits that no other case is pending against the parties.

8. In view of the compromise arrived at between the parties, no purpose would be served in case proceedings are continued as it would amount to wastage of precious time of the Court as because of the compromise, the parties are not going to support the case of the prosecution and as such continuation of proceedings would be futile exercise.

9. It has been held by Hon"ble the Apex Court as well as by this Court in various judgments that this Court has power u/s 482 Cr.P.C. to quash the proceedings if there is a compromise between the parties and the purpose is to secure the ends of justice or same is in the interest of parties. It has also been held by the Larger Bench of our own High Court in Kulwinder Singh and Others Vs. State of Punjab and Another, that the High Court has wide power to quash the proceedings even in non-compoundable offences, notwithstanding the bar u/s 320 of the Criminal Procedure Code in order to prevent abuse of the process of any Court or to secure the ends of justice.

10. The Hon"ble Apex Court in Gian Singh Vs. State of Punjab and Another, has laid down that compounding of offence and quashing of criminal proceedings are two separate things and are not interchangeable. It has also been mentioned

that two powers are distinct and different but ultimate consequence may be the same. It has also been held that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power u/s 482 Cr.P.C. is competent to quash criminal proceedings even in case of non-compoundable offences. No doubt, the powers u/s 482 Cr.P.C. are to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The Apex Court has held as under:-

It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers u/s 482. No precise and inflexible guidelines can also be provided.

Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court u/s 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family

dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

11. The aforesaid decision in Gian Singh's case (supra) finds support with the view taken by a five-Judge Bench of this Court in Kulwinder Singh's case (supra).

12. The power of this Court u/s 320 Cr.P.C. to "compound" an offence on the basis of compromise between the parties can be invoked only if the subject offence is compoundable. Meaning thereby, power u/s 320 Cr.P.C. is not exercisable in relation to a case of non-compoundable offence as has been held in some other judgments also but the bar u/s 320 Cr.P.C. does not debar the High Court from resorting to its inherent power u/s 482 Cr.P.C. and to pass an appropriate order to secure ends of justice. The object of powers u/s 482 Cr.P.C. is to prevent the abuse of law and to secure ends of justice and same are wide never to include its power to quash the proceedings in relation not only to non-compoundable offences notwithstanding the bar u/s 320 Cr.P.C. But such a power can be exercised in case the same is justified on the basis of facts and circumstances of each case. The genuineness of the settlement is based on facts and circumstances of each case. It is to be ascertained to the satisfaction of the Court that the compromise between the parties is genuine, willful and bonafide.

13. In the present case also, the parties have compromised their dispute and have no objection in quashing of the proceedings initiated against each other.

14. Accordingly, the present petitions are allowed and impugned criminal proceedings arising out of FIR No. 34 dated 14.06.2014, under Sections 307, 506 and 120B IPC and under Sections 25, 27, 54 and 59 of the Arms Act registered at Police Station P.A.U., Ludhiana and its cross version DDR No. 11 dated 10.11.2014 under Sections 451, 323, 324, 427 read with Section 34 IPC in FIR as mentioned above as well as all subsequent proceedings arising therefrom qua the petitioners in both the petitions, namely, Sharanjit Singh Garewal, Gurjit Singh, Karandeep Singh Sekhon, Gauravdeep Singh Bhangoo, Ravinder Singh and Gaganpreet Singh are hereby quashed.