
(2012) 04 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous M-No. 5153 of 2012 (O and M)

Shiv Kumari and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2012) 04 P&H CK 0011

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Rajbir Wasu, for the Appellant; Vivek Chauhan, Assistant Advocate General, Punjab and Mr. Sandeep Arora, Advocate for respondents No. 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

Rameshwar Singh Malik, J.—The petitioners have approached this court, by way of instant petition invoking the inherent jurisdiction u/s 482

of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") for quashing of the impugned FIR No. 41 dated 05.06.2008 u/s 406/498A IPC

registered at Police Station Jalandhar Cantt, on the basis of compromise dated 05.01.2012 and 09.04.2011 (Annexures P-2 and P-3) arrived at

between the parties. The petitioners as well as respondent No. 2 and 3 are present in the Court and identified by their counsel. Respondents No. 2

and 3 have filed their separate affidavits dated 03.04.2012, which are taken on record. On the pointed question, put by the court to respondents

No. 2 and 3, they have stated that the compromise Annexure P-2 and P-3 are genuine. They have amicably settled the matter with the intervention

of the elders of the village and common relatives of the parties. As a result of the

compromise, the parties are living together happily. Respondents

No. 2 and 3 have further stated that they have no objection in case the impugned FIR No. 41 dated 05.06.2008 u/s 406/498A IPC registered at

Police Station Jalandhar Cantt, against the petitioners is quashed.

2. In view of the above, the present case is covered by the law laid down by a Larger Bench of this Court, in the case of Kulwinder Singh &

anr.versus State of Punjab & anr.2007(3) RCR (CrI.) 1052, are attracted. The relevant observations made by the larger bench in paras No. 25 to

30 of the judgement, which can be aptly applied in the present case, read as under:

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its

power u/s 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., ""to prevent

abuse of the process of any Court"" or ""to secure the ends of justice"".

In Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others, , Hon''ble Krishna Iyer, J. aptly summoned up the essence of compromise

in the following words:-

The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."" The

power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is

not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and

unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power u/s 482 of the Cr.P.C.

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 in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be

dealt with by the Court by exercising its powers u/s 482 of the Cr.P.C. in the

event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

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.

The power u/s 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power u/s 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

3. Keeping in view the totality of facts and circumstances of the present case noted above, coupled with the reasons aforementioned, the present petition deserves to be allowed and the impugned FIR as well as the consequential proceedings arising therefrom are liable to be quashed. I say so because good sense has prevailed and two couples have saved the respective marriages. Thus, in the given situation noted above, this Court has no hesitation to conclude that instant one is a fit case for exercising the inherent powers of this Court u/s 482 Cr.P.C. so as to secure the ends of

justice. Accordingly, the instant petition is allowed and the impugned FIR No. 41 dated 05.06.2008 u/s 406/498A IPC registered at Police

Station Jalandhar Cantt, as well as the consequential proceedings arising therefrom, are ordered to be quashed.