
(2013) 02 P&H CK 0121

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-485 of 2013 (O and M)

Smt. Kaushlaya Devi and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 11-02-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 419, 420, 467, 468

Citation : (2013) 02 P&H CK 0121

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : R.S. Mamli, for the Appellant; Anmol Malik, AAG, Haryana, for the State and Mr. Rishi Nijhawan, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—Smt. Kaushlaya Devi, Smt. Bimla Devi, Hans Raj and Ram Kumar, the petitioners have brought this petition under the provisions of section 482 Cr.P.C., for quashing of FIR No. 332 dated 27.7.2011 (Annexure P1) registered at Police Station City Fatehabad, District Fatehabad for an offence punishable under sections 419, 420, 467, 468, 120-B IPC alongwith all the subsequent proceedings arising out of the same on the basis of compromise (Annexure P2). Though, the parties were directed to appear before the Illaqa Magistrate on 23.1.2013 for getting their statements recorded in support of the compromise, yet the parties could not make it to the court on the date fixed.

2. The complainant, Prem Nath Malhotra, respondent no. 2 had appeared in person with counsel Mr. Rishi Nijhawan, Advocate and has filed his reply by way of affidavit where he admits the factum of compromise and prays for quashing of the FIR and the subsequent proceedings.

3. It is a case where Prem Nath Malhotra and six others were the persons to inherit the property left by their predecessor. Sale deed was forged regarding their shares and a civil suit had been filed by Prem Nath Malhotra for himself and

on behalf of the other heirs on the strength of powers of attorney, copies of which are placed on the record and the said suit stands decreed. By way of powers of attorney, the complainant Prem Nath Malhotra is authorized to even compromise this case.

4. It is common knowledge that decisions rendered by the courts in adversarial system would not satisfy one or the other party. Sometimes, both the parties are left unsatisfied. The compromise arrived at between the parties washes away all the grievances of the warring factions and pave way for normal relations between them in future. Taking restoration of peace and harmonious relations between the parties and order in the society as the prime concerns of law, it has been held by this court in Dharambir Vs. State of Haryana, that a non compoundable matrimonial offence could be quashed on the basis of compromise between the parties. However, the said decision left a gap as it did not cover the cases other than the cases for matrimonial offences. A Larger Bench of five Hon''ble Judges of this court in Kulwinder Singh and Others Vs. State of Punjab and Another, took the following decision with regard to the other non-compoundable offences:-

29. 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 noncompoundable 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 FIRs/complaints in non-compoundable offences could, therefore, be quashed on the basis of compromise. It is so because after compromise, no evidence supporting the prosecution is possible to come on the record and possibility of conviction of the accused becomes bleak. However, before accepting the petition and quashing the proceedings, the court has to satisfy itself that the compromise is just and fair in which no party is taking undue benefit. The compromise in hand not only satisfies the above said requirements, but also appears to be securing the ends of justice. I, therefore, find that the matter has been amicably settled between the parties without their being any pressure on anyone. Hence, the petition is allowed and FIR No. 332 dated 27.7.2011 (Annexure P1) registered at Police Station City Fatehabad, District Fatehabad for an offence punishable under sections 419, 420, 467, 468, 120-B IPC along with all the subsequent proceedings arising out of the same is quashed.