
(2008) 05 P&H CK 0144

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 51246-M of 2007

Sukhwinder Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 23-05-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34

Citation : (2008) 26 CriminalCC 741

Hon'ble Judges : H.S. Bhalla, J

Bench : Single Bench

Advocate : R.P. Dhir, for the Appellant; P.S. Bajwa, AAG, for the Respondent No. 1 and Mr. G.K. Hundal, for the Complainant, for the Respondent

Final Decision : Allowed

Judgement

H.S. Bhalla, J.—The petitioners have knocked the door of this Court through the present petition u/s 482 of the Criminal Procedure for quashing of complaint dated 13.05.1996. The present petitioners were summoned, tried and convicted for commission of offence punishable under sections 452, 323, 506, 354 read with Section 34 of the Indian Penal Code by the learned Judicial Magistrate 1st Class, Hoshiarpur and were sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.300/- each for commission of offence u/s 452 IPC, to rigorous imprisonment for six months each for commission of offence u/s 323 IPC; to undergo rigorous imprisonment for six months each for commission of offence u/s 506 IPC; to undergo rigorous imprisonment for a period of one year for commission of offence punishable u/s 354 read u/s 34 of the Indian Penal Code. Aggrieved against the said judgment, the petitioners preferred an appeal before the Court of the learned Additional Sessions Judge, Hoshiarpur.

2. Now the pendency of the appeal before the Appellate Court, the complainant and the accused/appellants entered into a compromise and the matter was taken up before the Lok Adalat on 20.10.2007 but the case could not be disposed of as

the offence u/s 452 of the Indian Penal Code was non-compoundable.

3. In view of this background, the petitioners have knocked the door of this Court for quashment of complaint dated 13.05.1996 resulting into their conviction vide judgment dated 24.10.2006, on the ground that the parties have compromised the matter.

4. It has been contended by the learned counsel for the petitioners that the parties have compromised the matter and they have also suffered statement before the Lok Adalat on 20.10.2007 but as the offence u/s 452 IPC was non-compoundable and as such the case pending against the present petitioners could not be disposed of. He further submitted that compounding of offence u/s 452 IPC is not within the jurisdiction of the Appellate Court where the appeal of the petitioners is pending. He has also placed on record the original compromise deed signed by both the parties wherein the complainant has agreed not to proceed with the criminal proceedings against the present petitioners and pleaded no objection if the appeal pending before the Appellate Court is decided in terms of the compromise.

5. In view of the compromise arrived at between the parties, the trial is likely to result into acquittal and the continuance of the proceedings against the present petitioners would be an abuse of the process of law. Moreover, while discussing the scope of quashing of proceedings on the basis of compromise by this Court in exercise of powers u/s 482 Cr.P.C. even in non-compoundable offences, the Larger Bench of this Court in *Kulwinder Singh & Ors. v. State of Punjab* of Anr., 2007(3) C C C 626 (S.C.) : 2007(3) RCR(Cr.) 1052 (P&H) (Larger Bench) has held that the Court has wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar u/s 320 Cr.P.C. in order to prevent the abuse of law and to secure the ends of justice.

6. In the similar situated case, where the accused were convicted and during the pendency of the appeal, the parties had compromised the matter, the Hon''ble Supreme Court in *Khursheed & Anr. v. State of U.P. & Anr.*, 2008(1) C C C 580 (SC), granted permission to compound the offence u/s 325 IPC.

7. In view of the settled proposition of law and in view of the fact that the parties have compromised the matter, there is no impediment to grant permission to the parties to compound the offence. Accordingly the parties are allowed to compound the offence u/s 452 IPC. As such the present petition is partly allowed and the petitioners are directed to appear before the Appellate Court where the appeal is pending, who shall pass an appropriate orders in the light of permission having granted by this Court to the parties to compound the offence.