
(2014) 05 P&H CK 0447
In the Punjab And Haryana At Chandigarh
Case No : CRM-M No. 42553 of 2013

Surinder Kumar and Others	Vs	APPELLANT
State of U.T. Chandigarh and Others		RESPONDENT

Date of Decision : 30-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 120-B, 448, 506

Citation : (2014) 05 P&H CK 0447

Hon'ble Judges : Mahavir Singh Chauhan, J

Bench : Single Bench

Advocate : R.K. Bamal, Advocate for the Appellant; J.S. Toor, Advocate for Respondents No. 1 and 2 and Ms. Sunint Kaur, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision : Allowed

Judgement

Mahavir Singh Chauhan, J.—Heard.

2. FIR No. 230 dated 28.4.2008, under Sections 448/506/120-B of the Indian Penal Code, 1860 (for short, "IPC), recorded at Police Station, Sector 34, Chandigarh, on the statement of respondent No. 3-Ram Narain alleging that petitioners had stocked the scrap material in his plot forcibly. However, now they have settled the matter with private respondents.

3. The parties claim to have compromised the matter vide deed of compromise dated 20.7.2013 (Annexure P2). To find out the veracity of the compromise as regards its genuineness and consent of parties, vide order dated 1.5.2014, a report was sought from the learned trial Magistrate, who, vide his report dated 14.5.2014 has stated that after recording statements of the parties concerned, it is found that the compromise has been effected by the parties of their free will and consent and is without any pressure.

4. The complainant, being represented through counsel, and the learned State

counsel have no objection to the quashing of the FIR.

5. From the above it is established that the parties to the lis have resolved the inter se dispute amicably and to live in peace and harmony. Reference may be made to a Five-Judges Bench decision of this Court in Kulwinder Singh and Others Vs. State of Punjab and Another, , wherein it has been held as under:

27. 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 Criminal Procedure Code, or any other such curtailment, can whittle down the power u/s 482 of the Criminal Procedure Code.

28. 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 Criminal Procedure Code 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 Criminal Procedure Code 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.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power u/s 482 of the Criminal Procedure Code is to be exercised Ex Debito 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 Criminal Procedure Code 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.

6. It may also be of benefit to extract from *Gian Singh Vs. State of Punjab and Another*, , following observations of the Hon''ble Supreme Court of India:

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

7. It is anybody's guess that the parties having entered a compromise, possibility of the trial resulting into conviction of the accused is remote and bleak and that being so continuation of criminal proceedings would visit the accused with great oppression, prejudice and extreme injustice. Rather it would be unfair and contrary to the interest of justice, or say abuse of the process of the Court, if the criminal proceedings are allowed to continue. Ends of justice would be met only if the criminal proceedings are put to an end because this would allow the parties to translate their desire to live in peace into reality. The only consideration for the compromise reached between the parties seems to be their desire to bury the hatchet for all times to come. The compromise is also found to be in the interest of public at large, for, it will add to the peace of the society and will promote peaceful co-existence. The Courts are bound to 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 the 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

8. In the consequence, I accept the petition, quash the FIR in question as also the proceedings arising therefrom and discharge the petitioners from the proceedings.