
(2011) 03 P&H CK 0334
In the Punjab And Haryana At Chandigarh
Case No : CRM M-2401 of 2010

Tejinder Singh @ Manga

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 25-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 320(9), 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 324, 325

Citation : (2011) 03 P&H CK 0334

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nirmaljit Kaur, J.—The present petition has been filed u/s 482 Cr.P.C. for quashing of FIR No. 5 dated 10.1.2002 under Sections 323/324/34 IPC later on added Section 326 IPC Police Station Lohian, District Jalandhar and subsequent proceedings arising there from on the basis of compromise entered into between the parties.

2. The FIR in question was got registered by Respondent No. 2. However, the matter has been compromised due to the intervention of the respectable of the area. Compromise deed (Annexure P-2) has also been placed on record in this regard.

3. The parties are present in the Court along with their respective counsel. Learned Counsel for Respondents No. 2 and 3 has placed on record the affidavits of Respondents No. 2 and 3 admitting the factum of compromise. As per the said affidavits, Respondents No. 2 and 3 have no objection if the FIR in question is quashed.

4. However, learned Counsel appearing on behalf of the State has submitted that the Petitioner is a proclaimed offender.

5. Taking into account that the matter has been compromised between the

parties and the co-accused of the Petitioner has already been acquitted by the trial Court, the fact that the Petitioner has been declared proclaimed offender should not stand in the way to accept the compromise and quash the complaint in the facts of the present case.

6. This Court in the case of *Rajinder Singh @ Rajinder Kumar v. State of Haryana and Anr.* 2003(1) RCR 123 while quashing of criminal proceedings in a petition by a proclaimed offender held that a proclaimed offender cannot be granted indulgence, but having regard to the version of the complainant himself on oath before the Court, no purpose will be served by continuing the proceedings.

7. Hon''ble Delhi High Court in the case of *Smt. Urmila Devi v. The State (N.C.T. Of Delhi)* 2007(1) RCR 247 held that in the case where the co-accused have been acquitted, it would not be in the interest of justice to permit the accused to be subjected to a trial when the end result is more than clear and subjecting the accused to trial would be an exercise in futility.

8. Hon''ble the Supreme Court in the case of *Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney and Others*, held that:

29. No embargo, be in the shape of Section 320(9) of the Code of Criminal Procedure or a ny other such curtailment, can whittle down the power under Sections 482 of the Cr.P.C.

9. While relying on the aforesaid judgment of the Apex Court, this Court in the case of *Jobanjit Singh v. State of Punjab and Ors.* CrI. Misc. No. 10033 of 2009, decided on 29.7.2009) quashed the proceedings declaring the Petitioner as proclaimed offender by observing as under:

Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceedings with the prosecution. Accordingly, order dated 23.12.2000 passed by the Judicial Magistrate Ist Class, Ropar (Annexure P-3) declaring the Petitioner as proclaimed offender, FIR No. 38 dated 5.7.2000, registered at Police Station Chamkaur Sahib, District Ropar, under Sections 323,325,341,148 and 149 IPC (Annexure P-1) and all subsequent proceedings origins there from are quashed qua the Petitioner.

10. Similar view was also held by this Court in the case of *Gurpreet Singh v. State of Punjab and Anr.* (CRM No. M-1238 of 2007 decided on 29.1.2007).

11. The Full Bench of this Court, in the case of *Kulwinder Singh and Ors. v. State of Punjab and Anr.* 2007(3) RCR 1052 has held that 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 Code of Criminal Procedure 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 not only in matrimonial discord but others as well, such compromise

deserves to be accepted. It is further held as under:

The only inevitable conclusion from the above discussion is that there is no statutory bar under the Code of Criminal Procedure 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.

12. In the case of Madan Mohan Abbot Vs. State of Punjab, , the Apex Court emphasised and advised as under:

We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

13. Taking into account that the compromise has been effected between the parties, co-accused of the Petitioner has already been acquitted by the trial Court and the affidavits of Respondents No. 2 and 3 stating that they have no objection if the FIR in question is quashed, it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers u/s 482 Code of Criminal Procedure for quashing of FIR in the interest of justice.

14. Accordingly, the present petition is allowed and FIR No. 5 dated 10.1.2002 under Sections 323/324/34 IPC later on added Section 326 IPC Police Station Lohian, District Jalandhar and subsequent and all subsequent proceedings arising there from are hereby quashed qua the Petitioner.