

(2009) 09 P&H CK 0035

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-22606 of 2009 (O and M)

Vaibhav Sharma and Others

APPELLANT

Vs

The State of Punjab and another

RESPONDENT

Date of Decision : 22-09-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2010) 6 RCR(Criminal) 1855

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Vivek K. Thakur, for the Appellant; Anter Singh Brar, D.A.G., Punjab, For the Respondent No. 2 Mr. P.K. Garg, for the Respondent

Judgement

Rajesh Bindal, J.—This order shall dispose of the aforementioned two petitions as both arise out of same FIR.

2. Prayer in both the petitions is for quashing of FIR No. 24 dated 24.1.2009, under Sections 406 and 498-A IPC, registered at Police Station Tripri Town, District Patiala and all subsequent proceedings arising therefrom.

3. The aforesaid FIR has been got registered on the statement of respondent No. 2 Rakesh Rani against the petitioners. The petitioners in CRM No. M-22606 of 2009 are the husband, father-in-law, mother-in-law and sister-in-law of the complainant respectively, whereas the petitioner in CRM No. M-15384 of 2009 is her brother-in-law. Now the parties have compromised the matter and sought quashing of the FIR on that basis.

4. Learned counsel for the parties submit that the dispute between the parties was settled during the course of hearing in CRM No. M-17343 of 2009 - Vaibhav Sharma v. The State of Punjab, on 7.8.2009, wherein petitioner no. 1 and respondent no. 2 made the following statement :-

Our marriage was solemnised on 20.4.2008 but due to temperamental differences, we could not settled in our matrimonial home. We are living separate

since 6.5.2008. Even in terms of order passed by this court on 29.7.2009, the parties tried to re-settle in the matrimonial home but no progress could be made. We have mutually decided to separate. It has been agreed between the parties that a sum of Rs. 13,50,000/- shall be paid by Vaibhav Sharma (husband) to Rakesh Rani (wife) as permanent alimony. The dowry articles which were recovered by the police and lying in the possession of the police at Police Station Tripri Town, District Patiala, shall be taken by Ms. Rakesh Rani. Both the parties will file petition for divorce by mutual consent u/s 13-B of the Hindu Marriage Act before the court of District Judge, Patiala. After the grant of divorce, Rakesh Rani will not have any objection to the quashing of the criminal proceedings initiated by her and her family members against Vaibhav Sharma and his family members. It is also agreed upon between the parties that 50% of the amount shall be paid by Vaibhav Sharma to Rakesh Rani at the time of grant of divorce and the balance 50% shall be paid at the time of quashing of the FIR registered against Vaibhav Sharma and his family members. It is also agreed upon between both the parties that they will not indulge each other in any litigation in future.

5. In terms of the settlement both the parties have performed their part of the agreement and a decree of divorce by mutual consent u/s 13-B of the Hindu Marriage Act, 1955 has been granted by the learned District Judge, Patiala, on 14.9.2009. Respondent No. 2/complainant who is present in person in court submits that the parties have settled their dispute amicably and she does not have any objection to the quashing of the FIR in question. Learned counsel for the petitioners submitted that since the dispute between the parties has been settled as per compromise, the FIR in question deserves to be quashed. Reliance has been placed upon a five Judge Bench judgment of this Court in *Kulwinder Singh v. State of Punjab* 2007 (3) LH (P&H) 2225.

6. Dealing with issue of quashing of FIR on the basis of compromise, a Bench consisting of five Hon"ble Judges of this Court in *Kulwinder Singh's* case (supra) while approving minority view in *Dharambir v. State of Haryana*, 2005 (2) LH (P&H) 723 : 2005 (3) AIC P&H 622 opined as under :-

27 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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 parameters 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 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.

7. Compromise in modern society is the sine qua non of harmony and orderly behaviour. As observed by Krishna Iyer J., the finest hour of justice arrives propitiously when parties despite falling apart, bury the hatchet and weave a sense of fellowship of reunion. Inherent power of the Court u/s 482 Cr.P.C is not limited to matrimonial cases alone. The Court has wide powers to quash the proceedings even in non-compoundable offences in order to prevent abuse of

process of law and to secure ends of justice, notwithstanding bar u/s 320 Cr.P.C. Exercise of power in a given situation will depend on facts of each case. The duty of the Court is not only to decide a lis between the parties after a protracted litigation but it is a vital and extra-ordinary instrument to maintain and control social order. Resolution of dispute by way of compromise between two warring groups should be encouraged unless such compromise is abhorrent to lawful composition of society or would promote savagery, as held in Kulwinder Singh's case (supra).

8. 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 proceeding with the prosecution. Accordingly, FIR No. 24 dated 24.1.2009, under Sections 406 and 498-A IPC, registered at Police Station Tripri Town, District Patiala and all subsequent proceedings arising therefrom are quashed qua the petitioners.

The petitions are disposed of accordingly.