
(2010) 08 P&H CK 0406
In the Punjab And Haryana At Chandigarh

Vicky Hira and Others

APPELLANT

Vs

State of U.T. Chandigarh and Others

RESPONDENT

Date of Decision : 27-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Hindu Marriage Act, 1955 — Section 13B

Penal Code, 1860 (IPC) — Section 34, 406, 498A

Citation : (2010) 08 P&H CK 0406

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sabina, J.—Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure for quashing the FIR No. 302 dated 21.9.2006, under Sections 498A, 406 & 34 of Indian Penal Code (in short "IPC"), Police Station Sector 39, Chandigarh and consequent proceedings arising therefrom on the basis of compromise.

2. Learned Counsel for the petitioners has submitted that the parties have arrived at a compromise with the intervention of the relatives and friends. Respondent No. 2 and petitioner No. 1 have applied for divorce on the basis of mutual consent u/s 13-B of the Hindu Marriage Act, 1955. All the Istri-dhan articles etc. have been returned by the petitioner to respondent No. 2.

3. Respondent No. 2, who is present in person in the Court along with her counsel, has admitted the factum of compromise between the parties. Respondent No. 2 has also admitted the contents of her affidavit dated 4.8.2010, attached with the petition, wherein she has stated that FIR in question be quashed in view of the compromise. Respondent No. 2 has also stated that she has received all the Istri-dhan articles etc.

4. As per the Full Bench judgment of this Court in Kulwinder Singh and Ors. v.

State of Punjab 2007 (3) RCR (Criminal) 1052, High Court has power u/s 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

5. Hon"ble the Apex Court in the case of Nikhil Merchant Vs. Central Bureau of Investigation and Another, in para Nos. 26 and 24 has held as under:

26. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facts. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?

24. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of the Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

6. Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing these criminal proceedings to continue.

7. Accordingly, the present petition is allowed. The FIR No. 302 dated 21.9.2006, under Sections 498A, 406 & 34 of IPC, Police Station Sector 39, Chandigarh and consequent proceedings, arising therefrom, are quashed.