

Punjab-Haryana High Court

Harbhajan Singh And Others vs State Of Punjab And Others on 13 July, 2009

Criminal Misc. No.M-26113 of 2008 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Criminal Misc. No.M-26113 of 2008 (O&M)

Date of Decision: 13.7.2009.

Harbhajan Singh and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : Hon'ble Mr. Justice Rajesh Bindal

Present:- Mr. Vinod Arya, Advocate
for the petitioners.

Mr. Abhishek Chautala, AAG Punjab.

Mr. D.S. Pheruman, Advocate
for respondents No.2 to 9.

RAJESH BINDAL, J.

**** Prayer in the present petition is for quashing of cross-statement of respondent No.2 under Sections 452/323/324/148/149 IPC in relation to the incident with regard to which FIR No. 45 dated 11.4.2002 was got registered by petitioner-Pakhar Singh at Police Station Garhshankar District Hoshiarpur and all subsequent proceedings arising therefrom.

Learned counsel for the petitioners submits that the dispute between the parties has been compromised with the intervention of the well wishers and keeping in view that peace and harmony is maintained in the neighbourhood. Reliance has been placed upon a five Judge Bench judgment of this Court in Kulwinder Singh versus State of Punjab 2007 (3) Law Herald (P&H) 2225.

Respondent no.2-complainant, had appeared in Court in person who admitted the factum of compromise between the parties and stated that he has no objection in case cross-statement in question is quashed. He has also made a statement to this effect in the Court.

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) Law Herald (P&H) (FB) 723, 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 under Section 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 Versus Mrs. Kaushalya Sawhney and others*, (1980) 1 S.C.C. 63, 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 under Section 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 under Section 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 under Section 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 under Section 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 under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

32. The power under Section 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 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 under Section 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."

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 under Section 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 under Section 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).

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, cross-statement of respondent No.2 under Sections 452/323/324/148/149 IPC in relation to the incident with regard to which FIR No. 45 dated 11.4.2002 was got registered by petitioner Pakhar Singh at Police Station Garhshankar District Hoshiarpur and all subsequent proceedings arising therefrom are quashed.

The petition is disposed of accordingly.

13.7.2009
Reema

(RAJESH BINDAL)
JUDGE