

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No. M-34768 of 2011
Date of decision:- 31.1.2012

Avtar Singh Bittu and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the petitioners.

Mr. Abhishek Chautala, AAG Punjab.

RITU BAHRI J.(Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing the FIR No.226 dated 26.9.2010 under Sections 363,366 and 120-B IPC, registered at Police Station Chherretta, District Amritsar (Annexure P-1) on the basis of compromise dated 5.11.2011 (Annexure P-2).

The FIR was registered on the statement of Sumitra that her daughter was being harassed by Sherry son of Harbhajan Singh alias Billa and she was being suffered to perform marriage with him. The complainant and her husband were not agree for the said marriage. Avtar Singh, uncle of Sherry threatened the complainant that if they do not marry their daughter within four days with Sherry then she will be taken away. On not filing of her daughter in the house, the present FIR was registered against the petitioners.

However, during pendency of the investigation, compromise (Annexure P-2) was effected between the parties. The complainant does not wish to proceed with the criminal proceedings registered and has no objection if the FIR is quashed.

In compliance of order dated 17.11.2011 parties appeared before the trial Court and get their statements recorded. Report from the Judicial Magistrate 1st Class, Amritsar has been received. As per this report, complainant and the accused had appeared before the Court on 29.11.2011 and get their statements recorded. As per their statements recorded they have arrived at a compromise voluntarily, without any pressure and coercion. The status report is accompanied alongwith the statements of complainant and accused. After recording the statements of the parties, the compromise is held to be genuine.

Broad guidelines have been laid down by the Full Bench of this Court in the case of Kulwinder Singh and Ors. vs. State of Punjab and another 2007(3) RCR (Cr1.) 1052 for quashing the prosecution when parties entered into compromise. The Full Bench has observed that this power of quashing is not confined to matrimonial disputes alone. The relevant portion of the judgment reads as under:-

“26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others, (1980)1 SCC 63, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words :-

“The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

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) if the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C. 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 under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social emity 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."

The ratio of the Full Bench judgment is a special reference which has been made to the offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. However, the offences against human body other than murder and culpable homicide may be permitted to be compounded when the Court is in the position

to record a finding that the settlement between the parties is voluntary and fair. The Court must examine the cases of weaker and vulnerable victims with necessary caution.

The Hon'ble Supreme Court in the case of Madan Mohan Abbot vs. State of Punjab 2008(2) RCR (Criminal) 429 has examined a case where quashing was sought of an FIR under Section 406 IPC being non-compoundable. The Hon'ble Supreme Court has held that :-

- “1. No useful purpose would be served in continuing with the proceedings in the light of the compromise – There was no possibility of conviction.
2. It is advisable that in the disputes where question involved is of purely personal nature and no public policy is involved – Court should ordinarily accept the compromise.
3. Keeping the matter alive with no possibility of conviction is a luxury which the Courts, grossly overburdened as they are, cannot afford.”

Consequently, in view of the status report and the judgment of the Hon'ble Supreme Court in the case of Madan Mohan Abbot vs. State of Punjab (supra) and the law laid down by the Full Bench of this Court in the case of Kulwinder Singh and others vs. State of Punjab and another (supra), FIR No.226 dated 26.9.2010 under Sections 363,366 and 120-B IPC, registered at Police Station Chherretta, District Amritsar is quashed with all consequential proceedings arising therefrom qua petitioners.

The petition stands disposed of.

January 31, 2012
Vijay Asija

(RITU BAHRI)
JUDGE