

Binder Khan and Others Vs.

Binder Khan and Others Vs.

SooperKanoon Citation : sooperkanoon.com/1065417

Court : Punjab and Haryana

Decided On : Jul-03-2013

Appellant : Binder Khan and Others

Judgement :

CRM not M-13378 of 2013 (O&M) -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH (232-B) CRM not M-13378 of 2013 (O&M) Date of decision:

03. 07.2013.

Binder Khan and othersPetitioners Versus State of Punjab and othersRespondents CORAM: HON'BLE MRS.JUSTICE SABINA Present: Mr.Janak Singh, Advocate for the petitioneRs.Mr.Deep Singh, AAG, Punjab.

Respondent Nos.2 to 5 along with Mr.D.S.Malwai, Advocate.

**** SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of the cross-case i.e.DDR No.33 dated 07.03.2013 (Annexure P-2) under Sections 452, 324, 323, 427, 148 and 149 of the Indian Penal Code, 1860 (in short 'IPC') in FIR No.53 dated 07.03.2013 (Annexure P-1) under Sections 323, 324, 148, 149 and 326 IPC (added later on).registered at Police Station Sadar, Dhuri on the basis of compromise arrived at between the parties.

Learned counsel for the petitioners and respondent CRM not M-13378 of 2013 (O&M) -2- Nos.2 to 5 have submitted that it is a case of version and cross-version.

not parties have amicably settled their dispute.

Affidavits of respondent Nos.2 to 5 with regard to the factum of compromise effected between the parties have been placed on record wherein they have said that they have no objection if the cross-case i.e.DDR in question is ordered to be quashed.

As per the Full Bench judgment of this Court in Kulwinder Singh and others versus State of Punjab, 2007 (3) RCR (Criminal) 1052, High Court has power under Section 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.

Hon'ble the Apex Court in the case of Gian Singh versus State of Punjab and another 2012 (4) RCR (Crl.) 543, has held as under:- 57.

The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline CRM not M-13378 of 2013 (O&M) -3- engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be

prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime.

Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute.

Such offences are not private in nature and have serious impact on society.

Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc. cannot provide for any basis for quashing criminal proceedings involving such offences.

But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony CRM not M-13378 of 2013 (O&M) -4- relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute.

In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.

In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well

within its jurisdiction to quash the criminal proceeding.

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

Accordingly, this petition is allowed.

DDR No.33 CRM not M-13378 of 2013 (O&M) -5- dated 07.03.2013 (Annexure P-2) under Sections 452, 324, 323, 427, 148 and 149 IPC in FIR No.53 dated 07.03.2013 (Annexure P-1) under Sections 323, 324, 148, 149 and 326 IPC (added later on).registered at Police Station Sadar, Dhuri and all the subsequent proceedings arising therefrom are quashed.

(SABINA) JUDGE July 03, 2013 sandeep sethi

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com