

Mohinder Singh and Others Vs. State of Punjab and Others

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Court : Allahabad

Decided On : Jan-18-2012

Judge : The Honourable Ms. Justice Ritu Bahri

Appeal No. : Crl. Misc. No. M- 24522 of 2011 (O&M)

Appellant : Mohinder Singh and Others

Respondent : State of Punjab and Others

Judgement :

Ritu Bahri, J.

Oral:

quashing of FIR No. 57 dated 30.7.2011 under Sections 458, 324, 323, 148, 149 IPC registered at Police Station Kot Dharmu, District Mansa (Annexure P-1) is sought on the basis of compromise dated 8.8.2011 (Annexure P-2).

The FIR got registered on the statement made by Balwinder Singh which reads as under:-

“On 27.7.2011 at about 8:15 PM evening time, we were present in our house then from the main gate one motor cycle Hero Honda CD Delux bearing No. PB-31H-6242 entered in our house, which was being driven by Mohinder Singh son of Mehar Singh resident of Bhamme Kalan and on the rear side his son Gurpiar

Singh @ Bavia and his nephew Varinder Singh @ Chiria son of Janak Singh were sitting. Mohinder Singh was carrying . 12 bore DBBL gun on his shoulder. Gurpiar Singh was armed with Kapa and Varinder was armed with Gandasa. On coming they attacked my brother Kaptain Singh who was installing peg in the court yeard for the buffalo and Varinder gave his gandasi blow to Kaptain Singh which hit on his right side head from sharp side. Mohinder Singh gave his rifle watt on his right shoulder, Mohinder Singh gave four more watts which hit on the head, inside chest and back of Kaptain Singh. On raising noise by Kaptain Singh my son Inderjit Singh came our of our house. In the meantime one vehicle Summo Spacio stopped in front of gate of our house, from this vehicle Bhora Singh, Jota Singh, Labh Singh sons of Mehar Singh and Malkit Singh, Gassa sons of Bhora Singh resident of Bhamme Kalan came down and entered inside from our main gate. Out of these Labh Singh was armed with rifle .12 bore DBBL and all others were armed with dangs and sticks. Thereafter they started pelting brick bats in our house. In the meantime, Gurpiar Singh gave his Dah blow to my son Inderjit Singh from sharp side which hit on his left shoulder and Varinder Singh @ Chiria gave his gandasa blow to my son Inderjit Singh which hit on his left side head from sharp side, when I stepped forward to rescue them then Labh Singh above gave two watts of .12 bore rifle which hit on my left arm, under the left eye, on the upper side of right flank and inside of left thigh. We all raised noise "Marta - Marta" then my uncle Jaswant Singh @ Jassa son of Mail Singh, Avtar Singh @ Paru son of Ghumanda Singh and Chhinderpal Singh @ Gakhar son of Ghumanda Singh resident of Bhamme Kalan raised lalkara 'be courageous' we have come. Upon this all of them along with their weapons sat in spacio vehicle, in which already 4-5 unidentified persons were riding, ran away from the spot, while running their motor cycle Hero Honda was left in our house. Thereafter my uncle Jaswant Singh, Avtar and Bhinderpal Singh immediately arranged for a vehicle and got us admitted at Civil Hospital, Sardulgarh, where doctor is giving us treatment. Today you got recorded my statement, heard, which is correct. Action be taken. The reason of enmity is that one day earlier we had a dispute in the field regarding water. Regarding this the matter was compromised. Due to this grudge they with connivance of each other have caused injuries to us."

At the investigation stage, with the intervention of the respectables and Panchayat, a compromise has been effected between the parties (Annexure P-2). As per the compromise, they have decided not to take any action against each other and if the FIR is cancelled then the complainant will have no objection to that.

Reply by way of affidavit of the complainant Balwinder Singh has been filed.

In compliance of the order passed by this Court on 3.11.2011 report of the Sub Divisional Judicial Magistrate, Sardulgarh, has been received. As per the report, statement of the parties was recorded to the effect that they have compromised the matter with each other and do not want to proceed further with the case. The compromise has been effected without any pressure, threat or inducement.

As per the status report, this Court is of the opinion that the compromise is genuine and valid and no useful purpose would be served by continuing the proceedings.

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 (Crl.) 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 amity and reduces friction, then it truly is finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlordtenant 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) R.C.R. (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 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 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 Ors. vs. State of Punjab and another (supra), FIR No. 57 dated 30.7.2011 under Sections 458, 324, 323, 148, 149 IPC registered at Police Station Kot Dharmu, District Mansa (Annexure P-1) is quashed with all consequential proceedings arising therefrom qua petitioners.

The petition stands disposed of.

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