

(2018) 02 UK CK 0019
In the Uttarakhand High Court
Case No : 124 of 2011

A. Kalam

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 09-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 506](#),
[Section 406](#) - Punishment

Citation : (2018) 02 UK CK 0019

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : Sanpreet Azmani, S.S.Adhikari, Suarabh Kumar Pandey

Final Decision : Disposed off

Judgement

1. By means of present Application under Section 482 Cr.P.C., the applicants seek to quash the, charge-sheet, summoning order dated

29.11.2010 as well as the entire proceedings of Criminal Case No. 3190 of 2010, captioned as State vs. Abdul Kalam Azad, for the offences

punishable under Sections 406 & 506 of IPC, pending in the Court of learned Judicial Magistrate, Kashipur, District Udham Singh Nagar.

2. A compounding application being CRMA No. 231 of 2018 has been filed by the parties to show that the parties have buried their differences

and have settled their disputes amicably. Applicant is present in person duly identified by their counsel Mr. Sanpreet Singh Azmani, Advocate. Ms.

Shama Parveen (complainant)/respondent no. 2 is present in person, duly identified by her counsel Mr. Saurabh Kumar Pandey, Advocate. Ms.

Shama Parveen (respondent no. 2) submitted that they have settled their

disputes amicably and now she has no grievance left against the applicant.

Her husband Abul Kalam Azad (respondent no. 2) is agreed to take her at his home. He also submitted that he will take care of his wife as well as

his children. Respondent no. 2 further submitted that she has no objection if the criminal proceedings initiated by her against the applicants are

quashed on the basis of compromise entered into between the parties.

3. The question, which arises for consideration of this Court, is- whether the respondent no. 2 (victim) should be permitted to compound the

offences alleged against the petitioners or not? 4. Learned counsel for the parties also drew the attention of this Court towards the ruling of Gian

Singh v. State of Punjab and another, (2013) 1 SCC (Cri) 160, in which Hon'ble Supreme Court observed as below:

The position that emerges from the above discussion can be summarised 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 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 victim's 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-dominantly 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 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.

5. A reference may also be had to the decision of Narendra Singh and others vs. State of Punjab and another, reported in (2014) 6 SCC 466.

6. The reply to the question, posed by this Court in para no. 3 of this Judgment, therefore, is in the affirmative. Otherwise also, it will be a futile exercise if proceedings of the criminal case against the applicant are kept pending when the parties have settled their disputes amicably.

7. In view of the above, Compounding No. 1804 of 2017 is allowed. As a consequence thereof, summoning order dated 29.11.2010 as well as

the entire proceedings of Criminal Case No. 3190 of 2010, captioned as State vs. Abdul Kalam Azad, for the offence punishable under Sections

406 and 506 of IPC, pending in the Court of learned Judicial Magistrate, Kashipur, District Udham Singh Nagar, are hereby quashed qua

applicants.

8. Application under Section 482 Cr.P.C. is thus disposed of in terms of compromise arrived at between the parties.

9. Urgency application also stands disposed