
(2019) 11 J&K CK 0040
In the Jammu And Kashmir High Court
Case No : CRM (M) No. 269 Of 2019

Abdul Hadi Nadaf And Others

APPELLANT

Vs

UT Of JK And Others

RESPONDENT

Date of Decision : 26-11-2019

Acts Referred:

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 279, 304A, 337
Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 279, 304A

Citation : (2019) 11 J&K CK 0040

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Aamir Latoo, Afrooza, B. A. Dar

Final Decision : Allowed

Judgement

Sanjeev Kumar, J

1. In compliance to the order dated 20th November, 2019, the statements of respondents 4 to 8 who are legal heirs of the deceased killed in the motor vehicular accident have been recorded by the Registrar Judicial of this Court. In their statements they have categorically stated that they have amicably settled the dispute with the petitioners and the contents of the settlement have been reduced in the compromise agreement executed on 28th May, 2019. They have admitted the contents of the compromise deed and also admitted that they have put their signatures on the aforesaid deed. From the perusal of the statements of the respondents 4 to 8, who are admittedly the legal heirs of the deceased Riyaz Ahmad Khari who was killed in the motor vehicular accident, it is abundantly clear that the matter has been settled.

2. On the basis of the compromise deed executed between the petitioners and the respondents 4 to 8, the learned counsel for the petitioners submits that the FIR No. 184/2018 registered in the police station Sadder, Srinagar against the petitioner no. 3 under section 279/337,304 A RPC deserved to be quashed. It is

submitted that the continuation of investigation in the FIR No. 184/2018 would be sheer abuse of the process of the court more so that the legal heirs of the deceased have decided to bury the hatch. Brief factual matrix which is necessary for disposal of this petition needs to be noticed.

3. It is alleged that the petitioner no. 3 while driving his vehicle bearing No. JK01X-3828 (Hundai i20) hit one Riyaz Ahmad Khari, on 27.09.2018 at Bypass Sanat Nagar, Srinagar. Shri Riyaz Ahmad Khari, who was badly injured succumbed to his injuries and accordingly an FIR No. 184/2018 came to be registered. The investigating Officer on completion of the investigation in aforesaid FIR presented the challan before the Judicial Magistrate, Passenger Tax at Srinagar on 03.03.2019, where the challan is stated to be pending adjudication.

4. It is pleaded by the petitioners that the legal heirs of the deceased i.e. respondents 4 to 8 later on entered into amicable settlement and agreed not to pursue proceedings either civil or criminal against the petitioners in lieu of Rs. 8.00 lacs to be paid by the petitioners to the respondents 4 to 8 as one time settlement. The compromise deed in this regard was executed. The respondents 4 to 8 have admitted the correctness of the compromise deed. They got their statement recorded before the Registrar Judicial of this Court also in this regard. The respondents 4 to 8 who are present in the Court have made a statement that they have all got settled amount of Rs. 8.00 lacs in the shape of Demand Drafts from the petitioners and there is no outstanding left. Demand Drafts received by the respondents 4 to 8 were also shown to this Court and this Court after retaining the photocopy thereof, returned the same to the respondents 4 to 8.

5. In the facts and circumstance of this case and taking note of the facts that the parties have now settled the issue amicably, it would serve no purpose to keep the criminal proceedings pending against the petitioner no. 3 and this Court in exercise of its inherent powers vested under section 482 CrPC, quashes the same so as to mitigate the hardship of the parties. Reliance in this regard is placed on the judgment of Hon'ble the Supreme Court rendered in the case of *Gian Singh v. State of Punjab* (2012) 10 SCC 303 and *Narinder Singh v. State of Punjab* (2014) 6 SCC 466. The observations of the Supreme Court made in the para 29 in the case of *Narinder Singh v. State of Punjab* (supra) are very relevant and same are reproduced as under:

" 29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from

the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution:

29.2 When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be secure:

(i) end of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender:

29.4 On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves".

6. Judgments of the Supreme Court aforesaid have been relied by various High Courts and in appropriate cases, the powers under section 482 CrPC have been exercised to prevent the abuse of process of law and secure the ends of justice. In the light of the settled judicial position, this Court is of the view that notwithstanding the fact that the offences under section 279, 304 A IPC are non-compoundable offences, there should be no impediment in quashing the FIR and challan, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant. Needless to say that the offences under section 279, 337, 304 A are the offences which are not committed with any intention or knowledge of causing hurt to someone, but is only a result of negligent act of the accused.

7. In the aforesaid facts and circumstances and in view of the statement of the respondents 4 to 8 recorded by the Registrar Judicial of this Court, I am of the view, that allowing challan and criminal proceedings to continue would be sheer abuse of process of law. Accordingly this petition is allowed and FIR No. 184/2018 dated 27.09.2018 registered under section 279/337, 304A at police station Saddar, Srinagar and the proceedings emanating therefrom i.e. criminal proceedings and challan pending in the court of Judicial Magistrate, Passenger

Tax at Srinagar against petitioner no. 3 is quashed.