
(2014) 05 SHI CK 0107
In the High Court Of Himachal Pradesh
Case No : Cr. MMO No. 62 of 2014

Ankur Kalia and Another

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 05-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 321, 482
Penal Code, 1860 (IPC) — Section 323, 34, 452, 504, 506

Citation : (2014) 05 SHI CK 0107

Hon'ble Judges : Dharam Chand Chaudhary, J

Bench : Single Bench

Advocate : Rohit Bharoll, Advocate vice and Ramesh Sharma, Advocate for the Appellant; D.S. Nainta, Addl. A.G. and Mr. Ramesh Thakur, Asstt. A.G. for State, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Dharam Chand Chaudhary, J.—Heard.

2. In this petition, filed by the accused-petitioners, a prayer has been made for quashing of criminal proceedings initiated by respondent No. 2 against them vide FIR No. 41 of 2013 under Sections 452, 323, 504 read with Section 34 of Indian Penal Code registered in Police Station, Chintpurni District Una on the grounds inter alia that they have reconciled all the differences amicably and that the complainant is now not interested in prosecuting the criminal proceedings he initiated against them, any further.

3. Petitioners and respondents are present in person. Their statements have been recorded separately. The respondent-complainant and victim Mast Ram in their Joint statement have stated that now an amicable settlement is arrived at between the parties and, as such, he is no more interested to prosecute the criminal case registered at the instance of complainant Rajesh Kalia, against the accused-petitioners, any further. Accused-petitioners have also stated so in their joint statement recorded separately. The investigation in this case is complete

and challan stands filed, which presently is at the stage of service in the Court of learned Additional Chief Judicial Magistrate, Court No. 1, Amb, District Una, H.P. In the meanwhile, the respondents, who are the victims, have amicably settled the dispute with accused-petitioners.

4. No doubt, an appropriate application under Sections 320 or 321 of the Code of Criminal Procedure for compounding of an offence and withdrawal of prosecution in a criminal case could have only been filed in the trial Court. However, keeping in view that the offence punishable u/s 452 of Indian Penal Code is not compoundable one, therefore, no such application can be filed or entertained. On the other hand, the law on the issue is no more res-integra as the Apex Court in *Gian Singh Vs. State of Punjab and Another*, has held that the High Court in exercise of inherent powers vested in it u/s 482 of the Code of Criminal procedure, may quash the FIR in appropriate cases having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions, matrimonial or relating to dowry etc., in which the wrong basically is done to the victim and irrespective of the offence not compoundable, the victim and the accused have settled the dispute amicably. However, as per this judgment, the apex Court, in cases of serious nature like rape, dacoity and corruption cases etc., had deprecated the practice of quashing FIR for the reason that such offences have serious impact in the society at large. This judgment reads as follows:-

58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal

complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

5. In the case in hand, respondent No. 2 and 3 are the victims. There is some settlement having been arrived at between them and the accused persons, which has been reduced into writing and annexed with this petition as Ext. P-1. The accused-petitioners and Rajesh Kalia second respondent, one of the victims, seems to be the members of the same community. They have decided to put an end to the litigation in order to maintain cordial relations.

6. Being so, I accept this petition and quash FIR No. 41 of 2013 registered under Sections 452, 506, 323, read with Section 34 of Indian Penal Code against the accused-petitioners in Police Station, Chintpurni, District Una and also all the consequential proceedings pending in the Court of Additional Chief Judicial Magistrate Court No. 1, Amb, District Una, H.P.

7. With the above observations, this petition stands finally disposed of, so also the pending application(s), if any.