

(2015) 01 SHI CK 0038
In the High Court Of Himachal Pradesh
Case No : Criminal MMO No. 239 of 2014

Arun Bagai

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 05-01-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Motor Vehicles Act, 1988 — Section 187
Penal Code, 1860 (IPC) — Section 147, 148, 279, 302, 337

Citation : (2015) 01 SHI CK 0038

Hon'ble Judges : Sureshwar Thakur, J.

Bench : Single Bench

Advocate : George, for the Appellant; Vivek Attri, Deputy Advocate General, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sureshwar Thakur, J.—Petitioner herein is alleged to have committed offences under Sections 279 and 337 of the Indian Penal Code and under Section 187 of the Motor Vehicles Act. Through this petition, he seeks quashing of proceedings launched against him and pending before the learned trial Court, in pursuance to FIR No. 45, dated 16.04.2012, lodged in Police Station, Aut, District Mandi, H.P. During the pendency of proceedings before this Court, the parties arrived at a settlement. The settlement deed arrived at inter se the petitioner herein (accused) and the respondent No. 2 herein (complainant), stands tendered in sequel to their statements recorded in writing before this Court and duly signaturred by the accused and the complainant, respectively.

2. A perusal of the statement of the respondent (complainant), discloses the fact of the compromise deed, as tendered by him alongwith the petitioner herein (accused), having been arrived at voluntarily and without any exercise of coercion and undue influence, as such, when its execution is bereft of any compulsion, the disclosure in the compromise deed arrived at inter se the

petitioner herein and the respondent of the dispute inter se the parties, arising out of a motor vehicle accident, which sequelled the constitution of offences against the accused under Sections 279 and 337 of the Indian Penal Code and under Section 187 of the Motor Vehicles Act, having been settled, is to be revered, besides lack of any exercise of any compulsion or duress by any of the executing parties to it, lends it probative force. Therefore, when the settlement deed arrived at inter se the complainant and the accused bespeaks of the complainant willing to terminate the proceedings pending against the accused in the trial Court lends aggravated momentum for its vindication by this Court, besides when the injuries which were gained on the person of minor son of the respondent No. 2 (complainant), are simple in nature is also a propellant for inducing this Court to accept the settlement deed arrived at inter se the accused and the complainant. The beacon of light in guiding this Court to exercise its jurisdiction vested under Section 482 of the Cr.P.C., inasmuch as to what considerations ought to prevail upon this Court while exercising its jurisdiction, are encapsulated in the judgment of the Apex Court reported in Gian Singh Vs. State of Punjab and Another, Special Leave Petition (CRL) No. 8989 of 2010, wherein the Apex Court has held as under:

".....d. Minor offences under Section 279, IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remain non-compoundable in Section 506(II), IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, as Sections 147, 148, IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act No. 17 of 1999 (Section 3) has made Sections 506(II) IPC, 147 IPC and 148, IPC compoundable offences by amending the schedule under Section 320, Cr.P.C.

e. 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. Offences committed by Public Servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter-VII (relating to army, navy and air force) must remain non-compoundable.

f. That as a broad guideline 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.

While parting with this part, it appears necessary to add that the settlement or

compromise must satisfy the conscience of the Court. The settlement must be just and fair besides being free from the undue pressure, the Court must examine the cases of weaker and vulnerable victims with necessary caution."

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

3. Given the factum of the arriving of a voluntary compromise inter se the petitioner herein and the respondent No. 2 (complainant) and when given the plentitude of the powers conferred upon this Court under Section 482 of the Code of Criminal Procedure and their exercise being fettered only in the event of the purported culpable act of the accused constituting an offence under Section 302 of the Indian Penal Code or an offence under Section 376 of the Indian Penal Code, whereas, when the offences constituted by the purported culpable act of the petitioner are under Sections 279 and 337 of the Indian Penal Code and under Section 187 of the Motor Vehicles Act, this Court hence in exercise of the powers vested under Section 482 of the Code of Criminal Procedure, is prodded to, given the minimality of the injuries purportedly inflicted on the person of the accused and lack of interdict by the Hon"ble Apex Court against the quashing of criminal proceedings when the culpable act is constituted under the aforesaid provisions of the Indian Penal Code, rather given the free and fair compromise/settlement arrived at inter se the complainant and the accused, with aplomb vindicate the settlement. In aftermath, this Court is propelled to exercise jurisdiction vested under Section 482 of the Code of Criminal Code, its exercise cumulatively for the reasons aforesaid, being not restricted, circumscribed or trammeeled, qua the offences constituted in the FIR against the accused. Consequently, to also beget cordiality inter se the petitioner and the respondent No. 2 (complainant), the settlement is hence accepted.

4. Accordingly, the petition is also accepted and the criminal proceedings pending trial in case P.C. No. 33-1/13 (14-II/13), titled as State Vs. Arun Bagai, under Sections 279 and 337 of the Indian Penal Code and Section 187 of Motor Vehicles Act in pursuance to FIR No. 45, dated 16.04.2012, lodged in Police Station, Aut, District Mandi, H.P., are quashed and set aside. The petition stands disposed of, so also the pending application(s), if any.