

(2024) 06 SHI CK 0031
In the High Court Of Himachal Pradesh
Case No : CrMMO No.216 of 2024

Ashok Kumar and Ors.

APPELLANT

Vs

State of Himachal Pradesh and Ors.

RESPONDENT

Date of Decision : 17-06-2024

Acts Referred:

Code of Criminal Procedure 1973 — Section 320, 482

Indian Penal Code 1860 — Section 147, 149, 188, 341, 323, 324, 427, 504

Citation : (2024) 06 SHI CK 0031

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Surinder Saklani, Rajan Kahol, Vishal Panwar, B.C. Verma, Ravi Chauhan, Amit Jamwal

Final Decision : Disposed Off

Judgement

Sandeep Sharma, J

By way of present petition filed under Section 482 CrPC, prayer has been made by the parties for quashing of FIR No. 81/20, dated 6.4.2020, under Sections 341, 323, 324, 504, 188, 147 and 149 of IPC and FIR No. 82 of 2020 dated 6.4.2020, under Sections 341, 323, 324, 427, 504, 188 read with Section 34 of IPC, registered at Police Station Jogindernagar, District Mandi, Himachal Pradesh, alongwith consequential proceedings, if any, pending in the competent court of law, on the basis of compromise.

2. Precisely, facts of the case as emerge from the record are that FIR No. 81 of 2020, came to be lodged at the behest of respondent-complainant Suman Lata, alleging therein that on 6.4.2020, while she alongwith her sister in law Rachna Kumari, was going towards their house after having finished the work of laying of pipes for hand pump, some of the villagers, who failed to get the water supply from the hand pump, unnecessarily picked up fight with them and started hurling abuses. She also alleged that some of the villagers, not only insulted them, but also gave beatings with the help and aid of sickle, as a result thereof, they

suffered injuries. In the aforesaid background, FIR as detailed herein above, came to be lodged against the petitioners

3. In FIR No. 82 of 2020, complainant Ashok Kumar made counter allegation that persons named in the FIR i.e. respondents No. 2 to 6, gave them beatings, as a result thereof, they also suffered injuries.

4. On the basis of aforesaid complaint made by the complainant(s), police after having lodged the cross-FIRs against the parties, filed challan in the competent court of law, but before same could be taken to its logical end, parties to the lis have resolved to settle their dispute amicably inter-se them by way of compromise placed on record and as such, parties have approached this Court in the instant proceedings, praying therein to quash and set-aside the cross-FIRs as well as consequent proceedings, if any, pending before the competent court of law.

5. Respondent-State has also filed status report, which is taken on record, wherein factum with regard to compromise arrived between the parties has been duly acknowledged.

6. On 3.4.2024, parties came present before this Court. Suman Lata and Ashok Kumar (complainants in both the FIRs) on oath stated that they of their own volition and without there being any external pressure have entered into compromise, whereby both the parties have resolved to settle their dispute amicably. They stated that they have apologized to each other for their misbehavior and undertaken not to repeat such act in future, as such, do not wish to prosecute the case further and shall have no objection in case prayer made by the parties for quashing of FIR as well as consequent proceedings is accepted. While admitting contents of the compromise to be correct, they also admitted their signatures on the same.

7. Mr. Rajan Kahol, learned Additional Advocate General, having perused aforesaid statements made by Suman Lata and Ashok Kumar, stated that in view of the amicable settlement arrived inter-se parties, no fruitful purpose would be served in case FIR's sought to be quashed as well as consequent proceedings pending before the court below are allowed to sustain. He further stated that otherwise also, chances of conviction of the accused in view of the aforesaid statements made on oath by the complainants are very remote and bleak and as such, prayer made in the instant petition may be accepted.

8. The question which now needs consideration is whether FIR in question can be ordered to be quashed when Hon'ble Apex Court in *Narinder Singh and others versus State of Punjab and another* (2014)6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases 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.

9. At this stage, it would be relevant to take note of the judgment passed by Hon'ble Apex Court in *Narinder Singh (supra)*, whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that 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 criminal proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

10. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases 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. Apart from this, offences 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. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves.

11. The Hon'ble Apex Court in *Gian Singh v. State of Punjab and anr.* (2012) 10 SCC 303 has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is distinct and different from the power of a Criminal Court for compounding offences under Section 320 Cr.PC. Even in the judgment passed in *Narinder Singh's* case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.PC the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in *Dimpey Gujral and Ors. vs. Union Territory through Administrator, UT, Chandigarh and Ors.* (2013) 11 SCC 497 has further reiterated that continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

12. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as

Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and Another, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016, reiterated the principles/ parameters laid down in Narinder Singh's case supra for accepting the settlement and quashing the proceedings.

13. Since parties have compromised the matter with each other and complainants, at whose instance FIR sought to be quashed in the instant proceedings came to be lodged, are no more interested in pursuing the criminal prosecution of the accused, this court sees no impediment in accepting the prayer made on behalf of the parties for quashing of the FIR alongwith all consequential proceedings.

14. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No. 81/20, dated 6.4.2020, under Sections 341, 323, 324, 504, 188, 147 and 149 of IPC and FIR No. 82 of 2020 dated 6.4.2020, under Sections 341, 323, 324, 427, 504, 188 read with Section 34 of IPC, registered at Police Station Jogindernagar, District Mandi, Himachal Pradesh, alongwith consequential proceedings arising therefrom, are quashed and set aside. Accused are acquitted of the charges framed against them. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.