
(2014) 09 UK CK 0045

In the Uttarakhand High Court

Case No : Criminal Writ Petition Nos. 1014, 1032 and 1033 of 2014

Ashwani Kumar

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 323, 420, 466, 467, 468

Citation : (2014) 09 UK CK 0045

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Parikshit Saini, Advocate for the Appellant; Vinod Kumar Jemini, Deputy Advocate General, Kuldeep Rawal, Brief Holder and Safdar, Advocate for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—Since the aforesaid criminal writ petitions arise out of the same F.I.R., therefore, all three cases are being decided by this common judgment for the sake of brevity and convenience.

2. The petitioners, by means of present Criminal Writ Petitions under Article 226 of the Constitution of India, seek to quash the common F.I.R. in Case Crime no. 149 of 2014, under Sections 420, 466, 467, 468, 471, 323, 504, 506 IPC, P.S. Bhadrabad, District Haridwar. The said FIR was lodged by Som Dutt (herein respondent no. 3) against the accused persons, namely, Ashwani Kumar, Amit Kumar, Shiv Kumar and Shyamo Devi.

3. Compounding Applications (CRMA No. 10388/2014, 10389/2014 & 10390/2014) have been filed before this Court to show that the parties have settled their disputes amicably. All the compounding applications are supported by the affidavit of complainant/victim (respondent no. 3 herein) and the respective petitioner(s). According to the affidavits filed in support of the

compounding applications, the complainant has entered into the compromise between the petitioners and, therefore, the FIR lodged against the petitioners be quashed. Victim-Som Dutt is present in person before this Court, duly identified by his counsel Mr. Mohd. Safdar. The victim submitted before this Court that he does not wish to prosecute the petitioners, in as much as, they have settled their dispute amicably with the intervention of elderly persons of the society. Respondent no. 3 prayed that he may be permitted to compound the offences against the petitioners, the criminal writ petitions be allowed and the proceedings of the FIR be quashed.

4. Whereas the offences punishable under Sections 323, 504, 506 & 420 IPC are compoundable offences within the scheme of Section 320 Cr.P.C., the other offences are non-compoundable offences. The question is-whether the victim/person cheated should be permitted to compound such offences against the petitioners or not?

5. The Apex Court has dealt with the consequence of a compromise in regard to non-compoundable offences in the case of B.S. Joshi and Others Vs. State of Haryana and Another, and has held as below:

"If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power."

6. Thus, the High Court, in exercise of its inherent power, can quash criminal proceedings or FIR or complaint and Section 320 of Cr.P.C. does not limit or affect the powers u/s 482 of the Code of Criminal Procedure, 1973.

7. The permission can be granted to the victim to compound the offences complained of against all the petitioners in view of the judgments of Hon'ble Supreme Court in Narinder Singh and Others Vs. State of Punjab and Another, K. Puttaraju Vs. A. Hanumegowda, and Gian Singh Vs. State of Punjab and Another,

8. In Gian Singh's case (supra), Hon'ble Supreme Court has observed as below:-

"The position that emerges from the above discussion can be summarized 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 u/s 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 of 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 proceedings 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."

9. Since the victim has buried all his differences against all the petitioners, therefore, he should be permitted to compound the offences against the petitioners in the interest of the society.

10. Compounding Applications are allowed. As a consequence thereof, the criminal writ petitions are allowed on the basis of compromise arrived at between the parties. The impugned F.I.R. of Case Crime no. 149 of 2014, under Sections 420, 466, 467, 468, 471, 323, 504 & 506 IPC, Police Station Bhadrabad, District Haridwar is quashed.