
(2015) 08 RAJ CK 0083

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 1889 of 2015

Bhanwar Lal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 25-08-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 320, 482
Penal Code, 1860 (IPC) — Section 120-B, 420, 467, 468, 471

Citation : (2015) 08 RAJ CK 0083

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Shambhoo Singh, for the Appellant; O.P. Rathi, Public Prosecutor, Advocates for the Respondent

Final Decision : Allowed

Judgement

Vijay Bishnoi, J—This Criminal Misc. Petition under Section 482 Cr.P.C. has been filed by the petitioners with a prayer for quashing the FIR No. 17/2015 dated 24.02.2015 of Police Station, Barloot, District Sirohi for the offences punishable under Sections 420, 467, 468, 471 and 120-B IPC on the basis of compromise arrived at between the petitioners and the respondent No. 2.

2. In the instant case the respondent No. 2 has filed a complaint in the Court of Judicial Magistrate, Sheoganj under Section 156(3) Cr.P.C. and the same is forwarded to the concerned police station. The Police Station, Barloot, District Sirohi has registered the impugned FIR against the petitioners for the aforesaid offences.

3. It is submitted by learned counsel for the petitioners that on the complaint filed on behalf of the respondent No. 2, proceedings under Sections 420, 467, 468, 471 and 120-B IPC are pending. It is further contended by learned counsel for the petitioners that the respondent No. 2 and the petitioners have compromised the matter and resolved the dispute between them amicably.

4. Learned counsel for the petitioners has argued that since the dispute has already been amicably settled between the parties the impugned FIR lodged against the petitioners may kindly be quashed.

5. Learned counsel for the respondent No. 2 has conceded that the dispute between the respondent No. 2 and petitioners has already been settled and the respondent No. 2 does not want to press the allegations levelled in the impugned FIR.

6. Pursuant to the direction given by this Court on 06.08.2015, compromise entered between the parties have been verified by the Investigating Officer, who is investigating into the allegations levelled in the impugned FIR and the factual report dated 13.08.2015 of this effect has submitted by learned Public Prosecutor.

7. Heard learned counsel for the parties as well as the learned Public Prosecutor and perused the material available on record.

8. It is admitted that the dispute between the parties have already been settled amicably and the same have been verified by the Investigating Officer. Today also learned counsel for the respondent No. 2 has categorically submitted that the respondent No. 2 does not want to press the allegations levelled in the impugned FIR as the dispute has already been resolved between the parties.

9. The Hon"ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab and Another, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 , has held as below:-

"57. The position that emerges from the above discussion can be summarised 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 under Section 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 or 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 predominatingly 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 proceeding 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."

10. It is noticed that dispute between the parties was in relation to a land deal, wherein the respondent No. 2 has alleged that the petitioners and the other persons have prepared forged power of attorney and the same has been used for the purpose of transferring/selling his khatedari land by causing loss to him, thereafter, on that basis the sale-deed has also been executed without giving any consideration amount. It seems that the dispute was in the nature of land deal and now settled between the parties.

11. Having considered the facts and circumstances of the case and looking to the fact that the dispute between the parties have already been settled amicably and the respondent No. 2 does not want to press the allegations levelled in the impugned FIR, it is a fit case wherein the FIR pending against the petitioners can be quashed while exercising powers under Section 482 Cr.P.C.

12. In view of the law laid down by the Hon''ble Supreme Court in Gian Singh's case (supra) and in the facts and circumstances as noted above this Criminal Misc. Petition is allowed and the FIR No. 17/2015 dated 24.02.2015 of Police Station, Barloot, District Sirohi for the offences punishable under Sections 420, 467, 468, 471 and 120-B IPC is hereby quashed.

13. Stay petition is disposed of.

14. The factual report dated 13.08.2015, be taken on record.