
(2018) 05 RAJ CK 0081

In the Rajasthan High Court

Case No : Criminal Misc(Pet.) No. 1427, 1426 of 2018

Bhawani Singh, Bhau, Rajendra Singh @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 05-05-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 147, 149, 323, 427, 452

Citation : (2018) 05 RAJ CK 0081

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : Vishal Sharma, K.K. Rawal, Ram Vilas

Final Decision : Allowed

Judgement

Learned counsel for the petitioner has submitted that due to inadvertence one Uda Ram S/o Achla Ram Choudhary has been impleaded as party

respondent No.2 instead of complainant Mr. Ram Chandra S/o Goma Ram. Learned counsel for the petitioner has prayed that he may be allowed to

make correction in the cause title of this criminal misc. petition as well as stay petition today itself.

Having heard learned counsel for the parties, learned counsel for the petitioner is permitted to make necessary correction in the cause title of this

criminal misc. petition as well as stay petition.

The application (APPLR No.418/2018) preferred on behalf of the petitioner with a prayer for dispensing with the condition of filing certified copies of

compromise-deed dated 18.11.2017 and order dated 18.11.2017 is considered and allowed. The condition of filing certified copies of compromise-deed

dated 18.11.2017 and order dated 18.11.2017 is dispensed with.

Â This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the

petitioner with the prayer for quashing the proceedings pending against him before the Additional Chief Metropolitan Magistrate No.4, Jodhpur Metropolitan (hereinafter to be referred as 'the trial court') in Criminal Case No.366/2011 (State Vs. Mool Singh & Ors.), whereby the trial court vide order dated 18.11.2017 has attested the compromise for the offences punishable under Sections 323/149 IPC but refused to attest the compromise for the offences punishable under Sections 147, 452 and 427 IPC as the same are not compoundable.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the FIR No.8/2004 was registered at Police Station Mathaniya, District Jodhpur against the petitioner. After investigation, the police filed challan against the petitioner for offences punishable under

Sections 147, 452, 427 and 323/149 IPC in the trial court wherein the trial is pending against the petitioner for the aforesaid offence. During the pendency of the trial, an application was preferred on behalf of the petitioner as well as the respondent No.2 while stating that both the parties have

entered into compromise and, therefore, the proceedings pending against the petitioner may be terminated.Â The trial court vide order dated

18.11.2017 allowed the parties to compound the offence punishable under Sections 323/149 IPC, however, rejected the application so far as it relates

to compounding the offences punishable under Sections 147, 452 and 427 IPC.Â

The present criminal misc. petition has been preferred by the petitioner for quashing the said proceedings against him.

Learned counsel for the petitioner has argued that as the complainant-respondent No.2 and the petitioner have already entered into compromise and

on the basis of it, the petitioner has been acquitted for the offence punishable under Section 323/149 IPC, there is no possibility of conviction of the

petitioner for the offences punishable under Sections 147, 452 and 427 IPC. It is also argued that no useful purpose would be served by continuing the

trial against the petitioner for the offences punishable under Sections 147, 452 and 427 IPC because the same may derail the compromise arrived at

between the parties.

Learned counsel for the respondent No.2 has admitted that the parties have already entered into compromise and settled their dispute amicably and

the respondent No.2 does not want to press the charges levelled against the

petitioner in relation to offences punishable under Sections 147, 452 and 427 IPC.

The Hon'ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab & Anr. reported in JT 2012(9) SC 426 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 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 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.â??

Having considered the facts and circumstances of the case and looking to the fact that the petitioner and respondent no.2 have settled their dispute

amicably, there is no possibility of accused-petitioner being convicted in the case pending against him. When once the disputes have been settled by

the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra), this Court is of the opinion that it is a fit case,

wherein the criminal proceedings pending against the petitioner can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the criminal proceedings pending against the petitioner before the Additional Chief Metropolitan

Magistrate No.4, Jodhpur Metropolitan in Criminal Case No.366/2011 (State Vs. Mool Singh & Ors.) are hereby quashed.

Stay petition is disposed of.