

(2015) 05 UK CK 0014

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 550 of 2015

Bhupal Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 08-05-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 504

Citation : (2015) 05 UK CK 0014

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Prem Prakash Singh Phartiyal, for the Appellant; H.S. Rawal, A.G.A. and Shiwali Joshi, Brief Holder, Advocates for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The petitioners, by means of present Criminal Writ Petition under Article 226 of the Constitution of India, seek to quash the impugned F.I.R. dated 23.01.2015, registered as FIR No. 14 of 2015, under Sections 147, 148, 149, 307, 504, 506 IPC, relating to Police Station Bazpur, District Udham Singh Nagar.

2. A Compounding Application (CRMA No. 5011 of 2015) is filed before this Court to show that the parties have settled their disputes amicably. The said application is supported by the affidavits of Smt. Kranti Devi (informant/respondent No. 3) and Jaswant Singh (injured/respondent No. 4). Both the informant and the injured are present in person, duly identified by their counsel. Petitioners No. 1, 2, 3, 6 and 7 are also present in person before this Court duly identified by their counsel. Petitioner No. 4-Vijay Saini is in jail in connection with this case. Both the injured and the informant submitted before this court that they do not wish to prosecute the petitioners, inasmuch as, a compromise has taken place between them with the intervention of elderly persons of the society. They pray

that they may be permitted to compound the offences against the petitioners, the criminal writ petition under Article 226 of the Constitution of India be allowed and the proceedings of the aforesaid case crime number be quashed.

3. Whereas the offences punishable under Sections 504, 506 IPC are compoundable within the scheme of Section 320 Cr.P.C., the offence punishable under Section 307 IPC is non-compoundable offence.

4. The only question which is left for consideration of this Court is - whether the injured and informant should be permitted to compound the offence under Section 307 IPC or not? The permission can be granted to them to compound the offence punishable under Section 307 IPC in view of the judgment of the Hon'ble Supreme Court in *Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others*, AIR 2013 SC 518 : (2013) CriLJ 520 : (2012) 6 CTC 829 : (2012) 12 JT 80 : (2013) 1 RCR(Criminal) 745 : (2012) 11 SCALE 589 .

5. Learned counsel for the parties drew attention of this Court towards the decision of Hon'ble Supreme Court in *Narinder Singh and Others Vs. State of Punjab and Another*, (2014) AIRSCW 2065 : (2014) CriLJ 2436 : (2014) 4 JT 573 : (2014) 4 SCALE 195 : (2014) 6 SCC 466 .

6. The Hon'ble Supreme Court in *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 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 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 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 predominately 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."

7. Since the injured and the informant have buried all their differences against the petitioners, therefore, they should be permitted to compound such offences against the petitioners for maintaining peace in their community.

8. Compounding Application is allowed on the basis of compromise arrived at between the parties. As a consequence thereof, criminal writ petition under Article 226 of the Constitution of India is allowed and the impugned F.I.R. dated 23.01.2015, registered as FIR No. 14 of 2015, relating to Police Station Bazpur, District Udham Singh Nagar is hereby quashed.

9. Let the petitioner No. 4, i.e., Vijay Saini be set at liberty forthwith, if he is not required to be detained in any other case.

10. Let this order be communicated to the Jailor of concerned Jail for necessary action.