

(2017) 05 UK CK 0012
In the Uttarakhand High Court
Case No : 596 of 2017

Bhupal Singh Katyura

APPELLANT

Vs

State of Uttarakhand and another

RESPONDENT

Date of Decision : 03-05-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 482, Section 320 - Saving of inherent powers of High Court - Compounding of offences
Indian Penal Code, 1860, Section 506, Section 504 - Punishment for criminal ,intimidation - Intentional insult with intent to provoke breach of the peace

Citation : (2017) 05 UK CK 0012

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : Jagdish Singh Bisht, ?S. S. Adhikari,?Indu Sharma

Judgement

1. The applicants, by means of present application under Section 482 Cr.P.C., seeks to quash the charge-sheet dated 18.09.2014, order dated 01.12.2015, 26.09.2014 in FIR No. 13 of 2014 (1/2014) as well as the entire proceedings of Criminal Case No. 129 of 2015, State vs. Bhupal Singh, relating to offences punishable under Sections 504 & 506 of IPC, pending in the Court of learned Judicial Magistrate, Bhikiyasain, Almora, District Almora.

2. Present application under Section 482 Cr.P.C. has been filed by the parties to indicate that they have buried their differences and have settled their disputes amicably. Victim Vineet Kumar is present in person, duly identified by his counsel, Ms. Indu Sharma, Advocate. He said that he has resolved his disputes with the intervention of some

elderly persons of the society and made a prayer to permit him to compound the offences alleged against the accused- applicant. Applicant is present in person, duly identified by his counsel Mr. Jagdish Singh Bisht, Advocate.

3. Both the offences complained of against the applicant are compounding offences within the Scheme of Section 320 Cr.P.C. The question, which arises for consideration of this Court, is- whether the victim should be permitted to compound the offences alleged against the applicant or not?

4. Learned counsel for the applicants drew the attention of this Court towards the ruling of *Gian Singh v. State of Punjab and another*, (2013) 1 SCC (Cri) 160, in which Hon"ble Supreme Court observed as below:

"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."

5. The reply to the question, posed by this Court in para no.

3 of this Judgment, therefore, is in the affirmative. Otherwise also, it will be a futile exercise if proceedings

of the criminal case against the applicant are kept pending when the parties have settled their disputes amicably.

6. In view of the above, the charge-sheet dated 18.09.2014, order dated 01.12.2015, 26.09.2014 in FIR No. 13 of 2014 (1/2014) as well as the entire proceedings of Criminal Case No. 129 of 2015, State vs. Bhupal Singh, relating to offences punishable under Sections 504 & 506 of IPC, pending in the Court of learned Judicial Magistrate, Bhikiyasain, Almora, District Almora, are hereby quashed qua applicant.

7. Application under Section 482 Cr.P.C. is thus disposed of in terms of compromise arrived at between the parties.