
(2015) 03 UK CK 0065

In the Uttarakhand High Court

Case No : Criminal Misc. Application (C-482) No. 303 of 2015

Bilal Ahmad and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 307, 323, 328, 498A, 504

Citation : (2015) 2 NCC 30

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Manoj Bisht, for the Appellant; H.S. Rawal, A.G.A. and K.S. Rawal, Brief Holder, Advocates for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J—A charge-sheet has been filed against the applicants for the offences punishable under Sections 498A, 323, 504, 506, 328, 307 of IPC and Section 3/4 of the Dowry Prohibition Act. Compounding application, being CLMA No. 374 of 2015, has been filed by the parties to indicate that they have buried their differences and have settled their dispute amicably. Joint compromise has been filed alongwith compounding application annexing therein the affidavits of applicant No. 1 Bilal Ahmad and respondent No. 2 Afsha Praveen.

2. Complainant-respondent No. 2 Afsha Praveen is present in person before the Court, duly identified by her counsel Mr. Virendra Singh Rawat. She says that she is no more interested in prosecuting the applicants, in as much as the dispute between the parties is resolved with the intervention of elderly members of the family. She stated that she may be permitted to compound the offences alleged against the applicants as she and her husband Bilal Ahmad have now decided to part their ways of life and she has already received a sum of Rs. 2,00,000/- from applicant No. 1. Accused-applicant No. 1 Bilal Ahmad is also present in person

before the Court, duly identified by his counsel Mr. Manoj Bisht, who also affirms what is stated by the complainant in the open Court.

3. Whereas some of the offences alleged against the accused-applicant are compoundable offences within the scheme of Section 320 of Cr.P.C., the others are not.

4. The only question which is left for consideration of this Court is whether the complainant should be permitted to compound the offences alleged against the accused-applicants or not?

5. Hon"ble Supreme Court in the cases of 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 and 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 , has permitted compounding of such type of offences, which are otherwise non-compoundable, within the scheme of Section 320 of Cr.P.C.

6. It will also be useful to reproduce the law laid down by Hon"ble Apex 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 , wherein it was observed, in the context of such cases, as under:

"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 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."

7. Since the complainant-respondent No. 2 has settled the dispute amicably with the accused-applicants, therefore, she should be permitted to compound the offences complained against the accused-applicants in the interest of society as well as in the interest of justice. Compounding application is allowed. As a consequence thereof, application under Section 482 of Cr.P.C. is also allowed. Chargesheet dated 16.06.2013 and cognizance order dated 25.02.2014, as also the entire proceedings of criminal case No. 614 of 2014, State v. Bilal Ahmad and others, under Sections 498A, 323, 504, 506, 328, 307 of IPC and Section 3/4 of the Dowry Prohibition Act, pending in the court of Addl. Chief Judicial Magistrate, Dehradun are hereby quashed on the basis of compromise arrived at between the parties.