

(2018) 08 RAJ CK 0064

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 1116 of 2018

Dilip Kumar @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 10-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 307
Arms Act, 1959 — Section 27

Citation : (2018) 08 RAJ CK 0064

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : Pankaj Gupta, J.P. Bhardwaj, Aditya Singh Rathore

Final Decision : Allowed

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been filed by the petitioner with a prayer for quashing the FIR No.39/2018 dated

10.03.2018 of Police Station Ghamurwali, District Sri Ganganagar for the offences punishable under Section 307 IPC read with Section 27 of Arms

Act IPC.

In the instant case the respondent No.2 lodged the impugned FIR against the petitioner for the aforesaid offences.

It is submitted by learned counsel for the petitioner that on the complaint filed on behalf of the respondent No.2, proceedings under Section 307 IPC

read with Section 27 of Arms Act IPC are pending. It is further contended by learned counsel for the petitioner that the respondent No.2 and the

petitioner have compromised the matter and resolved the dispute between them amicably.

Learned counsel for the petitioner has argued that since the dispute has already been amicably settled between the parties the impugned FIR for the

offences punishable under Section 307 IPC read with Section 27 of Arms Act IPC against the petitioner may kindly be quashed.

Learned counsel for the respondent No.2 has conceded that the dispute between the respondent No.2 and petitioner has already been settled amicably

and the respondent No.2 does not want to press the allegations levelled in the impugned FIR for the aforesaid offences and he has no objection if the

impugned FIR is quashed.Â

Pursuant to the direction given by this Court on 12.4.2018, compromise entered between the parties has been verified by the Investigating Officer,

who is investigating into the allegations levelled in the impugned FIR and the factual report dated 10.08.2018 of this effect has been submitted by

learned Public Prosecutor.

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

It is admitted that the dispute between the parties has already been settled amicably and the same has 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 for the aforesaid offences as the dispute has already been resolved between the parties.

Â 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) SCÂ?"426, has

held as below:-

â??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-dominatingly 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.

It is noticed that dispute between the parties was in relation to the injury sustained by him during the marriage function, wherein the respondent No.2 has alleged that when he was taking care of decoration work of electricity suddenly the petitioner fire a gun shot upon him from backside and on account of that he sustained injury. It seems that the dispute has now settled between the parties amicably.

Having considered the facts and circumstances of the case and looking to the fact that the dispute between the parties has already been settled

amicably and the respondent No.2 does not want to press the allegations levelled in the impugned FIR for the offences punishable under Section 307

IPC read with Section 27 of Arms Act IPC, it is a fit case wherein the FIR pending against the petitioner can be quashed while exercising powers

under Section 482 Cr.P.C.Â

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.39/2018 dated 10.03.2018 of Police Station Ghamurwali, District Sri Ganganagar for the offences

punishable under Section

307 IPC read with Section 27 of Arms Act IPC is hereby quashed.

Stay petition is disposed of.

The factual report dated 10.08.2018 be taken on record.