
(2013) 11 UK CK 0014

In the Uttarakhand High Court

Case No : Criminal Misc. Application No. 619 of 2010

Ilam Chand

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2014) CriLJ 2010

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The applicants Ilam Chand, Smt. Saraswati, Amit, Vikas, Km. Rashmi, and Km. Soma, by means of present petition moved u/s 482, Cr.P.C., seek to quash the charge-sheet dated 29.07.2009, summoning order dated 11.09.2009 and the entire criminal proceedings of Criminal Case No. 1113 of 2009 captioned as State v. Neeraj and others, in respect of offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. and Section 3/4, Dowry Prohibition Act, pending in the Court of Additional Chief Judicial Magistrate, Haridwar. A first information report was lodged by the respondent No. 2 against seven accused persons including the applicants on 09.5.2009 at PS Ranipur District Haridwar, which was registered as Case Crime No. 164 of 2009 for the offences punishable under Sections 498-A, 323, 504, 506, IPC and Section 3/4 of the Dowry Prohibition Act. After the investigation, a charge-sheet was submitted against the accused persons for the self-same offences. Cognizance was taken on the said charge-sheet. Aggrieved against the same, present application u/s 482, Cr.P.C. was moved by these six accused persons, who are the family members and close relatives of the husband of respondent No. 2. The husband Neeraj Kumar himself is not the applicant in this application u/s 482, Cr.P.C.

2. None appeared for the respondent No. 2 despite personal service of notice upon her counsel. No counter-affidavit is filed on behalf of the respondents either. The contents of the affidavit filed on behalf of the applicants, therefore

remain uncontroverted.

3. Learned counsel for the applicant stated that respondent No. 2 is living with her husband Neeraj S/o. applicant No. 1. He further stated that that the parties have settled their disputes amicably.

4. A compromise deed is enclosed with the petition as annexure No. 8. Respondent No. 2 stated in para 1 of the compromise-deed that she was not willing to pursue case against the accused persons (the second party). It was specifically stated in paras 2 and 3 that the respondent No. 2 is not keen to prosecute her husband or any of his family members in proceeding under Sections 323, 498-A, 504, 506, IPC and Section 3/4 of the Dowry Prohibition Act relating to criminal case No. 1113 of 2009, captioned as State v. Neeraj and others. Respondent No. 2 and her husband were the signatories to the aforesaid settlement-deed dated 26-3-2010. As has been stated above, according to the learned counsel for the applicants, the parties are living together as husband and wife. The present applicants are the family members and close relatives of the applicants.

5. Whereas offences punishable under Sections 323, 504 and 506, IPC are compoundable offences within the scheme of Section 320, Cr.P.C., offences u/s 498-A, IPC and Section 3/4 of the Dowry Prohibition Act are not. The question is whether the respondent No. 2 should be permitted to compound such offences against the applicants are not?

6. Learned counsel for the petitioners drew the attention of this Court towards the ruling of Gian Singh Vs. State of Punjab and Another, 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 u/s 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.

7. The instant case is squarely covered by the said ruling of the Hon''ble Supreme Court. The reply to the question posed above is in the affirmative in view of the rulings of Hon''ble Apex Court in B.S. Joshi and Others Vs. State of Haryana and Another, and Gian Singh Vs. State of Punjab and Another, .

8. Hon''ble Apex Court has also provided note of caution to High Courts in Preeti Gupta and Another Vs. State of Jharkhand and Another, , in the following words:

To find out the truth is a Herculean task in a majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases.

Hon''ble Apex Court cautioned that the allegations of such complaints are required to be scrutinized with great care and circumspection.

As a consequence thereof, application u/s 482, Cr.P.C. is allowed on the basis of settlement-deed executed by the respondent No. 2. The charge-sheet dated 29-7-2009, summoning order dated 11-9-2009 and the entire criminal proceedings of Criminal Case No. 1113 of 2009 captioned as State v. Neeraj and others, in respect of offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. and Section 3/4, Dowry Prohibition Act, pending in the Court of Additional Chief Judicial Magistrate, Haridwar are hereby quashed qua applicants.