

(2019) 05 RAJ CK 0099

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Pet.) No. 2358 Of 2019 & Criminal Miscellaneous (Pet.) No. 2359 Of 2019 & Criminal Miscellaneous (Pet.) No. 2360 Of 2019

Jagdish Beniwal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-05-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 341, 392, 427

Citation : (2019) 05 RAJ CK 0099

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Firoz Khan, Farzand Ali, Talmeez Ahmed

Final Decision : Disposed Off

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the petitioner with the prayer for quashing the Criminal Case No.102/2009 pending before Judicial magistrate No.5, Jodhpur Metropolitan arising out of FIR No.223/2008 registered at Police Station Mandore, Jodhpur for offence under Sections 392, 427/34 and 341 IPC.

Learned counsel for the petitioner has argued that the complainant-respondent No.2 and the petitioner have already entered into compromise and on the basis of it, there is no possibility of conviction of the petitioner for the offences punishable under Sections 392, 427/34 and 341 IPC. It is also argued that no useful purpose would be served by continuing the trial against the petitioner for the aforesaid offences because the same may derail the compromise arrived at between the parties.

Learned counsel for the respondent No.2 has admitted that the parties have already entered into compromise and resolved their dispute amicably and the respondent No.2 does not want to press the charges levelled against the

petitioner in relation to offences punishable under Sections 392, 427/34 and 341 IPC.

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) SC - 426 has held as below:-

"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-dominantly civil flavor 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."

Having considered the facts and circumstances of the case and looking to the fact that the petitioners and respondent no.2 have settled their dispute amicably,

there is no possibility of accused-petitioner being convicted in the case pending against him. When once the disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra), this Court is of the opinion that it is a fit case, wherein the criminal proceedings pending against the petitioner can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the criminal proceedings in Criminal Case No.102/2009 pending against the petitioner before Judicial Magistrate No.5, Jodhpur Metropolitan is hereby quashed.

Stay petition is disposed of.