
(2013) 04 UK CK 0004

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Appn. (C-482) No. 334 of 2013

Jagdish Prasad Mittal and Another

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 04-04-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 294, 320, 504

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2013) 04 UK CK 0004

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : K.S. Verma, for the Appellant; M.A. Khan, Brief Holder for Respondent No. 1 and Mr. P.C. Petshali, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—By way of present application/petition, moved u/s 482 of Cr.P.C., the applicants/petitioners seek to quash the charge sheet dated 07.02.2006 (Annexure-2 to the petition) and to quash the entire proceedings of Case No. 598 of 2006, State vs. Rajneesh Mittal and another, pending in the court of Chief Judicial Magistrate, Dehradun on the basis of amicable settlement entered into between the parties. An FIR was lodged by respondent no. 2 Vinod Kumar against the applicants in police station Kotwali, Dehradun on 01.12.2005 in respect of offences punishable under Sections 294, 504 of IPC and the one u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. After completion of the investigation, a charge sheet was submitted against both the applicants as regards offences punishable u/s 504 of IPC and the one u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Now the respondent no. 2 seeks permission to compound the offences complained of against the applicants.

2. It may be noted here that the offence punishable under Sections 504 of IPC is

simply compoundable offence. Affidavits have been filed on behalf of the applicants (accused) and the informant (respondent no. 2) to this effect. Informant Vinod Kumar is present in person before the Court duly identified by his counsel Mr. P.C. Petshali. Accused/applicants Jagdish Prasad Mittal and Rajneesh Mittal are also present in person before the Court duly identified by their counsel Mr. K.S. Verma.

3. Learned counsel for the applicants 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 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 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 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.

4. The instant case is squarely covered by the said ruling of the Hon''ble Supreme Court. It is pertinent to note here that the offence punishable under Sections 504 of IPC is simply compoundable offence. The only thing which requires consideration is whether the applicants and the complainant should be permitted to compound the offence punishable u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes Act or not and the obvious reply is in the affirmative in view of the ruling of Hon''ble Apex Court given in Gian Singh Vs. State of Punjab and Another, .

5. Therefore, the informant/respondent no. 2 is permitted to compound the offences in view of the above ruling of the Hon''ble Supreme Court. The application/petition u/s 482 of Cr.P.C. is accordingly allowed. Impugned charge sheet dated 07.02.2006 as well as the entire proceedings of criminal case no. 598 of 2006, State vs. Rajneesh Mittal and another, as regards offences punishable u/s 504 of IPC and the one u/s 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, pending in the court of Chief Judicial Magistrate, Dehradun are hereby quashed.