

(2015) 06 UK CK 0023

In the Uttarakhand High Court

Case No : Compounding Application No. 845 of 2015 in Criminal Misc.
Application No. 321 of 2014

Jageer Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 03-06-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 323, 498-A, 506

Citation : (2015) 2 NCC 681

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Tapan Singh, Advocate, for the Appellant; Raman Kumar Sah, Dy. Advocate General assisted by V.S. Pal, Learned A.G.A., for the Respondent

Judgement

Sudhanshu Dhulia, J.—The First Information Report was lodged on 22.12.2013 against the present applicants by respondent No. 2, which was registered under Sections 323 /506 /498-A of I.P.C. and 3 /4 Dowry Prohibition Act at Police Station Bhagwanpur, District Haridwar. In the said case, the police submitted the charge-sheet before the court concerned, and the learned Magistrate took cognizance against the present applicants. The applicant No. 1 - Jageer Singh is the husband, applicant No. 2 is father-in-law and applicant No. 3 is mother-in-law of the complainant. During the pendency of the case some kind of settlement arrived at between the parties by which they are ready to withdraw all the cases pending before different courts in matrimonial cases. Now a joint compounding application has been moved by applicant No. 1 - Jageer Singh and respondent No. 2 - Smt. Popin (complainant) before this Court along with an affidavit with a prayer that they want to withdraw all the cases pending before different courts. According to the compromise, the husband/applicant No. 1 and wife/respondent No. 2 are ready to live separately. In terms of the compromise arrived at

between the parties, husband and wife have now filed a divorce petition under Section 13B of Hindu Marriage Act before the Judge, Family Court, Saharanpur. It further states that the applicant/husband is ready to give Rs. 1,10,000/- (Rupees One lac and ten thousand only) to respondent/wife, immediately after the final decision on the application under Section 13B of Hindu Marriage Act before the court at Saharanpur.

2. Today both the applicant No. 1 - Jageer Singh and respondent No. 2 - Smt. Pupin Devi are present before the Court, who were verified by their Advocates, namely, Mr. Tapan Singh and Mr. S.K. Shandilya respectively. Questions, relating to their compromise, were put to them. They have categorically stated that they want to resolve their dispute in view of the compromise arrived at between them.

3. In view thereof, there is no useful purpose for continuing the criminal proceedings between the parties, particularly in view of the law laid down by the Hon'ble Apex Court in Gian Singh Vs. State of Punjab and Another, wherein correctness of the earlier decision of Hon'ble Apex Court in Nikhil Merchant Vs. Central Bureau of Investigation and Another, and B.S. Joshi and Others Vs. State of Haryana and Another, has been reiterated. The operative portion of the judgment (Gian Singh) is reproduced 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 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 a 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 a 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 the criminal case would put the 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."

4. The present matter at hand arises out of a matrimonial dispute between the parties. In view of the compromise arrived at between the parties, and particularly, considering the above decision of the Hon''ble Apex Court, the case No. 155 of 2014 pending before the Judicial Magistrate II, Roorkee, District Haridwar is hereby set aside. With the aforesaid direction, the application under Section 482 Cr.P.C. stands disposed.