
(2014) 04 UK CK 0039

In the Uttarakhand High Court

Case No : Criminal Misc. Application No. 293 of 2014

Jitendra Kumar

APPELLANT

Vs

Ram Singh

RESPONDENT

Date of Decision : 02-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 320, 482
Penal Code, 1860 (IPC) — Section 420, 468, 471

Citation : (2014) 2 NCC 89

Hon'ble Judges : Umesh Chandra Dhyani, J

Bench : Single Bench

Advocate : Sarvesh Agarwal, Advocate for the Appellant; Lalit Miglani, Advocate for the Respondent

Final Decision : Allowed

Judgement

Umesh Chandra Dhyani, J.—The applicant, by means of present Application u/s 482 Cr.P.C., seeks to quash the proceedings of Criminal Case No. 1778 of 2008 (new No. 666 of 2012), titled as Ram Singh v. Jitendra Kumar, pending in the court of Judicial Magistrate, Kashipur, District Udham Singh Nagar, for the offences punishable under Sections 420, 468 & 471 IPC. A criminal complaint case was filed by respondent against accused-applicant in the court of A.C.J.M., Kashipur. The statements of the complainant and his witnesses were recorded under Sections 200 & 202 Cr.P.C. The Magistrate, having found a prima facie case against the applicant-accused, summoned him to face the trial. Aggrieved against the same, present application u/s 482 Cr.P.C. was filed by the accused-applicant.

2. The allegation against the applicant, in a nutshell, is that he prepared a forged document in the name of the complainant (respondent herein), which document was addressed to the Managing Director of the Siddhartha Paper Mills, Kashipur mentioning therein that nothing is due to him against the factory. In other words, the accused purported to show in the name of the complainant that nothing was

outstanding against the factory in his favour. A compromise application was filed before the trial court mentioning therein that the parties have entered into compromise. The trial court did not accept the compromise on the ground that the offences complained of against the accused-applicant are non-compoundable offences, except the offence punishable u/s 420 IPC.

3. Now, a Compounding Application (CRMA No. 421 of 2014) is filed before this Court to show that the parties have settled their disputes amicably. Both the complainant and the accused have filed their affidavits indicating the same. The complainant is present in person, duly identified by his counsel Mr. Pankaj Miglani. The applicant is also present in person before this Court, duly identified by his counsel Mr. Sarvesh Agarwal. The complainant submitted before this Court that he does not wish to prosecute the applicant, in as much as, a compromise has taken place between them. The complainant prayed that he may be permitted to compound the offences against the applicant and the application u/s 482 Cr.P.C. be allowed and the proceedings of the criminal case be quashed.

4. Offence punishable u/s 420 I.P.C. is compoundable offence within the scheme of Section 320 Cr.P.C. (with the leave of the Court). The rest of the offences complained of against the applicant are non-compoundable offences within the scheme of Section 320 Cr.P.C. The question is - whether the complainant/victim should be permitted to compound such offences against the applicant or not?

5. Reliance was placed upon the pronouncements of the Hon''ble Apex Court in Gian Singh Vs. State of Punjab and Another, and Nikhil Merchant Vs. Central Bureau of Investigation and Another, Hon''ble Apex Court in Nikhil Merchant's case (supra) held that Section 320 Cr.P.C. will not come in the way of High Court in exercising it's inherent jurisdiction u/s 482 Cr.P.C.

6. In Gian Singh's case (supra), Hon''ble Apex Court has 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."

7. The reply to the question posed in para 5 of this judgment is, therefore, in the "affirmative". Since the complainant has buried all his differences against the applicant, therefore, he should be permitted to compound such offences against the applicant in the interest of justice. Compounding Application (CRMA No. 421/2014) is allowed in the interest of justice. As a consequence thereof, application u/s 482 Cr.P.C. is allowed. The proceedings of Criminal Case No. 1778/2008 (new No. 666 of 2012) pending in the court of Judicial Magistrate, Kashipur, District Udham Singh Nagar are hereby quashed.