
(2019) 02 UK CK 0023

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 286 Of 2019

Khushnaseeb And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 19-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 354, 498A, 504, 506
Dowry Prohibition Act, 1961 — Section 3, 4
Code Of Criminal Procedure, 1973 — Section 320

Citation : (2019) 02 UK CK 0023

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : Sanjeev Singh, Lalit Miglani, S.P. Singh

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. Present writ petition has been filed for quashing the FIR dated 09.12.2018 registered as case crime/FIR No. 726 of 2018 in respect of offences punishable under sections 498A, 323, 504, 506, 354 IPC and one punishable under section 3/4 of Dowry Prohibition Act at P.S. Manglore, District Haridwar on the basis of the compromise arrived between the parties.

2) A Joint Compounding application, being CRMA no. 2098 of 2019, accompanying with the affidavit, has been filed by the parties to indicate that they have buried their differences and have settled their dispute amicably.

3) Petitioner no. 1 Khushnaseeb (husband) is present in person before the Court, duly identified by his counsel Mr. Sanjeev Singh, Advocate. Complainant-respondent no. 2 Abdul Hak (complainant) and respondent no. 3 Smt. Nashreen Jaha (wife of petitioner no. 1) are also present in person before the Court, duly identified by her counsel Mr. S.P. Singh, Advocate.

4) Complainant-respondent no. 2 and 3 stated that they are no more interested

in prosecuting the petitioners, in as much as the dispute between the parties has been resolved amicably. They further stated that they may be permitted to compound the offences alleged against the petitioner. The statement given by the complainant-respondent no. 2 and 3 in the open Court has been affirmed on behalf of the accused-petitioner.

5) The only question which is left for consideration of this Court is whether the complainant-respondent no. 2 and 3 should be permitted to compound the non-compoundable offences alleged against the accused-petitioner or not?

6) Hon'ble Supreme Court in the cases of Dimpay Gujral vs Union Territory through Administrator U.T. Chandigarh and others, [2013 (123) AIC 119 (S.C.)] and Narendra Singh and others vs State of Punjab and another, (2014) 6 SCC 466, has permitted compounding of such type of offences, which are otherwise non-compoundable, within the scheme of Section 320 of Cr.P.C.

7) It will also be useful to reproduce the law laid down by Hon'ble Apex Court in Gian Singh vs. State of Punjab and another (2013) 1 SCC (Cri) 160, wherein it was observed, in the context of such cases, as under:

"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 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 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."

8) A reference may be had to the decision of Narendra Singh and others vs State of Punjab and another, reported in (2014) 6 SCC 466 and Criminal Appeal no. 1498 of 2014, Manohar Singh vs State of M.P. and another, decided by Hon'ble Apex Court on 21.07.2014. Manohar Singh's case (supra) covers the case under Section 498A IPC and Section 3/4 of the Dowry Prohibition Act.

9) It will be a futile exercise if proceedings of the criminal case against the petitioner are kept pending when the parties have settled their disputes amicably.

10) Compounding application is allowed. As a consequence thereof, writ petition is allowed. FIR dated 09.12.2018 registered as case crime/FIR No. 726 of 2018 in respect of offences punishable under sections 498A, 323, 504, 506, 354 IPC and one punishable under section 3/4 of Dowry Prohibition Act at P.S. Manglore, District Haridwar is hereby quashed on the basis of compromise arrived at between the parties.