
(2015) 09 RAJ CK 0125

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 2377/2015

Kundanlal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-09-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Hindu Marriage Act, 1955 — Section 13-B
Penal Code, 1860 (IPC) — Section 324, 326, 498-A

Citation : (2015) 09 RAJ CK 0125

Hon'ble Judges : Vijay Bishnoi, J.

Bench : Single Bench

Advocate : H.S. Balot, for the Appellant; Pankaj Awasthi, Public Prosecutor, for the Respondent

Final Decision : Disposed Off

Judgement

Vijay Bishnoi, J.—This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the petitioners with a prayer for quashing the proceedings pending against them before Chief Judicial Magistrate, Udaipur (hereinafter referred to as "the trial court") in Criminal Original Case No. 329/2006 (25/2014) (State Vs. Kundanlal & Anr.), whereby the trial court vide order dated 23.11.2013 has attested the compromise for the offence punishable under Section 324 IPC but refused to attest the compromise for the offences punishable under Section 326 and 498-A IPC as the same are not compoundable.

2. Brief facts of the case are that on the complaint lodged at the instance of respondent No. 2, the FIR No. 278/2005 has been registered at Police Station, Bhupalpura, District Udaipur against the petitioners. After investigation, the police filed challan against the petitioners for the offences punishable under Sections 324, 326 and 498-A IPC in the trial court wherein the trial is pending against the petitioners for the aforesaid offences. During the pendency of the trial, an application was preferred on behalf of the petitioners as well as the

respondent No. 2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioners may be terminated. The trial court vide order dated 23.11.2013 allowed the parties to compound the offence punishable under Section 324 IPC, however, rejected the application so far it relates to compounding the offences punishable under Sections 326 and 498-A IPC.

3. The present criminal misc. petition has been preferred by the petitioners for quashing the said proceedings against them.

4. The learned counsel for the petitioners has argued that as the complainant-respondent No. 2 and the petitioners have already entered into compromise and on the basis of it, the petitioners have been acquitted for the offence punishable under Section 324 IPC, there is no possibility of conviction of the petitioners for the offences punishable under Sections 326 and 498-A IPC. It is also contended by learned counsel for the petitioners that the parties have decided to live separately by mutual consent and in this regard a joint application under Section 13-B of the Hindu Marriage Act, 1955 bearing Case No. 325/2013 has already been filed and the same is resulted into divorce decree by the Family Court, Udaipur. Learned counsel for the petitioners has produced a certified copy of the statement of injured-respondent No. 2 recorded before the trial court and contended that the injured-respondent No. 2 in her statement has clearly stated that the compromise has been arrived at between her and the accused-petitioners and now she does not want to prosecute the accused-petitioners further in any case and she has further stated in her statement that the accused-petitioners have not assaulted her for dowry. It is also argued that no useful purpose would be served by continuing the trial against the petitioners for the offences punishable under Sections 326 and 498-A IPC because the same may derail the compromise arrived at between the parties.

5. The learned counsel for the respondent No. 2 has admitted that the parties have already entered into compromise and decided to live separately and the respondent No. 2 does not want to press the charges levelled against the petitioners in relation to offences punishable under Sections 326 and 498-A IPC.

6. The Hon"ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab and Another, 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 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 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."

7. Having regard to the totality of the facts and circumstances of the case and particularly the fact that the respondent No. 2 in her statement has clearly stated that she does not want to prosecute the accused-petitioners further in any case and she has not been assaulted by the accused-petitioners for the purpose of dowry, there is no possibility of accused-petitioners being convicted in the case pending against them. When once the matrimonial disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

8. 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 petitioners can be quashed while exercising powers under Section 482 Cr.P.C.

9. Accordingly, this criminal misc. petition is allowed and the criminal proceedings pending against the petitioners before the Judicial Magistrate, Udaipur in Criminal Original Case No. 329/2006 (25/2014) (State Vs. Kundanlal

& Anr.) are hereby quashed.

10. Stay petition is disposed of.

11. The certified copy of statement of injured-respondent No. 2 be taken on record.