

(2017) 09 UK CK 0002
In the Uttarakhand High Court
Case No : 1188 of 2017

Mahesh @ Satta

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 01-09-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 320](#) - Compounding of offences
[Indian Penal Code, 1860](#), [Section 307](#),
[Section 506](#), [Section 504](#) - Attempt to murder - Punishment for criminal intimidation - Intentional insult with intent to provoke breach of the peace

Citation : (2017) 09 UK CK 0002

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : Mani Kumar, S.S. Adhikari, P.S. Uniyal, Mohd. Umar

Judgement

1. Accused-applicant is facing trial in respect of offences punishable under Sections 307, 504, 506 IPC in Sessions Trial No. 141 of 2012, pending in the court of III Addl. Sessions Judge, Rudrapur, Udham Singh Nagar.

2) Compounding application, being CRMA no. 1526 of 2017, has been filed by the parties to indicate that they have buried their differences and have settled their dispute amicably. Joint compromise has been filed alongwith affidavits of accused-applicant and complainant-respondent no. 2 as well as injured-respondent no. 3.

3) Accused-applicant Mahesh @ Satta is present in person before the Court, duly identified by his counsel Mr. Mani Kumar, Advocate. Complainant-respondent no. 2 Smt. Kamla as well as injured-respondent no. 3 Bhagwan Dei are also present in person before the Court, duly identified by their counsel Mr. Mohd. Umar, Advocate.

4) The complainant-respondent no. 2 as well as injured-respondent no. 3 stated

that they are no more interested

in prosecuting the applicant, 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 applicant. The statement given by the complainant- respondent no. 2 as well as injured-respondent no. 3 in the open Court has been affirmed on behalf of the accused-applicant.

5) The only question which is left for consideration of this Court is whether the complainant-respondent no. 2 as well as injured-respondent no. 3 should be permitted to compound such offences alleged against the accused-applicant or not?

6) Hon''ble Supreme Court in the cases of Dimpy 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) While deciding whether to exercise its power under Section 482 Cr.P.C. or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, or at the early stage of trial, the High Court may accept the settlement to quash the criminal proceedings.

9) Reliance may also be placed in Dina Nath Prasad & others vs. State & Anr ., decided by Hon"ble Delhi High Court on 12th January, 2016 in Criminal Misc. Case no. 111 of 2016, Judgment rendered by Hon"ble Allahabad High Court on 18.11.2015 in C-482 Petition No. 31751 of 2015, Rajendra Sharma and others vs. State of U.P. & another and the Judgment rendered by Hon"ble Punjab and Haryana High Court on 29.05.2012 in CrI. Misc. Case No. 22608 of 2011, Satwinder Singh & another vs. State of Punjab & others .

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

11) Compounding application is allowed. As a consequence thereof, application under Section 482 of Cr.P.C. is also allowed. Summoning order dated 04.07.2012 and charge sheet dated 16.06.2012, as also the entire proceedings of S.T. no. 141 of 2012 (FIR no. 105/2012), under Sections 307, 504, 506 IPC, P.S. Rudrapur, District Udham Singh Nagar, pending in the court of III Addl. Sessions Judge, Rudrapur, Udham Singh Nagar are hereby quashed on the basis of compromise arrived at between the parties.