

(2017) 01 UK CK 0047
In the Uttarakhand High Court
Case No : 126 of 2017

Mohammaddeen and three others

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 31-01-2017

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) 01 UK CK 0047

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : D.N.Sharma, M.A.Khan, Milind Raj, K.S.Chaudhary, S.S.Adhikari, Anil Kumar

Final Decision : Disposed

Judgement

1. The writ petitioners, by means of present Writ Petition, seek to quash the FIR No. 265 of 2016, under Sections 307, 504 and 506 of IPC, lodged by respondent no. 3, at Police Station Gadarpur, District Udham Singh Nagar.

2. A compounding application being CLMA No. 839 of 2017 has been filed by the parties, to indicate that they have buried their differences and have settled their disputes amicably. A joint compromise application is also filed by them along with affidavits of Mohammaddeen (petitioner no.1), Ahmad Pathan (respondent no. 3 / complainant), Smt. Nazeer Begum alias Guddi (respondent no. 4 /injured). Respondent nos. 3 & 4 are present in person, duly identified by their counsel Mr. Anil Kumar, Advocate. They (respondents

no. 3 & 4) say that they have no grievance left against the petitioners and they are not interested in prosecuting them, inasmuch as, the dispute has been

settled amicably between the parties with the intervention of some elderly persons of the society. In other words, respondent no. 4 has exonerated the present petitioners. Petitioner Mohammaddeen (petitioner No.1) is also present in person duly identified by his counsel Mr. D. N. Sharma, Advocate.

3. Whereas offences under Section 504 and 506 of IPC are compoundable offences within the Scheme of Section 320 of Cr. P.C., the offence under Section 307 of IPC is not. The question arises for consideration is- whether the respondents no. 3 & 4 /persons aggrieved should be permitted to compound the offences under Sections 307, 504 and 506 of IPC against the petitioners or not?

4. Learned counsel for the petitioners drew the attention of this Court towards the ruling of *Gian Singh v. State of Punjab and another*, (2013) 1 SCC (Cri) 160, in which Hon"ble Supreme Court observed 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 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."

5. The instant case is squarely covered by the said ruling of the Hon'ble Supreme Court. Hon'ble Apex Court also permitted compounding of offence punishable under Section 307 IPC in the case of Dimpay Gujral vs. Union Territory through Administrator U.T. Chandigarh and others, [2013 (123) AIC 119 (S.C.)].

6. While deciding whether to exercise its inherent powers or not, timing 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, the High Court may accept the settlement to quash the criminal proceedings. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases, where the charge is framed but the evidence is yet to start, the High Court can exercise its powers, but after prima facie assessment of the circumstances/material mentioned therein. This Court is of the opinion that this matter deserves to be given a quietus as continuance of proceedings arising out of the first information report in question would be an exercise in futility.

7. Reliance may also be placed in Deena 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 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.

8. The instant case is squarely covered by the aforesaid rulings of the Hon'ble Supreme Court. The obvious reply to the question posed in para 3 is in the affirmative in view of the ruling of Hon'ble Apex Court in Gian Singh's case (supra).

9. In view of the above, the impugned FIR No. 265 of 2016, under Sections 307, 504 and 506 of IPC, lodged by respondent no. 3, at Police Station Gadarpur, District Udhampur and the criminal proceedings emanating therefrom, are hereby quashed qua the writ petitioners.

10. Criminal Writ Petition No. 126 of 2016 is thus disposed of in terms of compromise arrived at between the parties.

11. Urgency Application being IA No. 592 of 2017 also stands disposed of.